

THE LEGISLATIVE COUNCIL OF THE GOVERNOR OF MADRAS.

Thursday, the 1st February 1934.

The House met at eleven of the clock, Mr. President (the hon. Mr. B. RAMACHANDRA REDDI) in the Chair.

PRESENT:

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| Usman Sahib Bahadur, K.C.I.E., The hon. Khan Bahadur Sir Mahomed. | Mahmud Schamnad Sahib Bahadur, Khan Bahadur. |
| Krishnan Nayar, <i>Kt.</i> , The hon. Diwan Bahadur Sir M. | Manikkavelu Nayakar, Mr. M. A. |
| Campbell, K.C.I.E., C.S.I., C.B.E., V.D., I.C.S., The hon. Sir Archibald. | Metherell, Mr. J. K. |
| Stokes, K.C.I.E., C.S.I., I.C.S., The hon. Sir Hopetoun. | Moidoo Sahib Bahadur, Khan Bahadur T. M. |
| Raja of Bobbili, The hon. the. | Moses, Mr. P. C. |
| Rajan, The hon. Mr. P. T. | Muhammad Meera Ravuttar, Mr. K. P. V. S. |
| Kumaraswami Reddiyar, The hon. Diwan Bahadur S. | Muniswami Nayudu, Diwan Bahadur B. |
| Abdul Hameed Khan Sahib Bahadur. | Muniswami Pillai, Rao Sahib V. I. |
| Ahmed Miran Sahib Bahadur. | Muthiah Chettiyar, Mr. M. A. |
| Alamelumangathayaramma, Mrs. K. | Muthu Chettiyar, Rao Bahadur P. C. |
| Annamalai Chettiyar, Mr. S. A. A. | Nachiyappa Gounder, Mr. K. A. |
| Appadurai Pillai, Diwan Bahadur A. | Nadimuthu Pillai, Mr. A. Pl. N. V. |
| Arasu, Mr. V. T. | Nanjappa Bahadur, Subadar-Major S. A. |
| Basheer Ahmed Sayeed Sahib Bahadur. | Narasa Reddi, Mr. T. |
| Basu Dev, Mr. C. | Narasimhaswami, Rao Sahib D. V. |
| Bayappa Reddi, Mr. P. | Narayanan Nambiyar, Mr. V. P. |
| Beyabani Sahib Bahadur, S. M. K. | Narayanaswami Pillai, Rao Bahadur T. M. |
| Bhanoji Rao, Mr. A. V. | Natesa Mudaliyar, Rao Bahadur C. |
| Birley, Mr. F. | Palat, Mr. R. M. |
| Devadasan, Mr. M. | Pannirselvam, Rao Bahadur A. T. |
| Dharmalingam Pillai, Rao Sahib V. | Parthasarathi Ayyangar, Mr. C. R. |
| Duraiaswami Reddiyar, Mr. K. M. | Patnaik Mahasayo, Sriman M. G. |
| Ellappa Chettiyar, Diwan Bahadur S. | Patro, <i>Kt.</i> , Rao Bahadur Sir A. P. |
| Foulkes, Mr. R. | Pattabhiramayya, Mr. K. |
| Gopalaswami Ayyangar, Diwan Bahadur N. | Pattagar of Palayakottai. |
| Harischandrudu Nayudu, Mr. A. | Peddiraju, Mr. P. |
| Hood, I.C.S., Mr. H. M. | Pocker Sahib Bahadur, B. |
| Indrayya, Mr. C. | Premayya, Mr. G. R. |
| Jagannatha Raju, Rao Bahadur G. | Rajagopala Pillai, Mr. P. V. |
| Jagannatham, Mr. H. M. | Raja of Khallikote. |
| Jayaram Nayudu, Rao Sahib C. | Ramachandra Padayachi, Mr. P. K. |
| Kesavaramamurti Nayudu, Mr. K. | Ramakrishna Reddi, Mr. A. |
| Khalif-ul-lah Sahib Bahadur, Khan Bahadur P. | Ramamurti, Rao Sahib Pandit Ganala. |
| Koti Reddi, Mr. K. | Raman Menon, Mr. K. P. |
| Krishnayya Choudari, Mr. P. V. | Ramaswami Ayyar, Mr. T. S. |
| Krishnamurti, Rao Bahadur D. | Ramaswami Mudaliyar, Mr. V. M. |
| Krishnan, Mr. C. | Ranganatha Mudaliyar, Mr. A. |
| Krishnaswami Ayyar, <i>Kt.</i> , Diwan Bahadur Sir Alladi. | Ranganatha Mudaliyar, Mr. G. |
| Kumararaja of Venkatagiri. | Ranganatha Mudaliyar, Mr. M. D. T. |
| Kuppuswami Choudari, Mr. J. | Rangaswami Reddi, Mr. M. B. |
| Ladden, Mr. W. W. | Ratnasabbapati Mudaliyar, Diwan Bahadur C. S. |
| Lakshmana Reddi, Mr. G. | Sahajanandam, Swami A. S. |
| Langley, Mr. W. K. M. | Sami Venkatachalam Chetti, Mr. |
| Madanagopal Nayudu, Mr. R. | Sesha Reddi, Mr. B. P. |
| Mahboob Ali Baig Sahib Bahadur. | Shetty, Mr. A. B. |
| | Simbachalam Pantulu, Mr. G. |

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PRESENT—cont.

Singam Ayyangar, Mr. K.
Siva Raj, Rao Sahib N.
Sivasubrahmanya Ayyar, Mr. K. S.
Smith, C.I.E., I.C.S., Mr. E. Conran.
Soundara Pandian, Mr. W. P. A.
Sreshta, Mr. M. S.
Srinivasa Ayyangar, Mr. T. C.
Srinivasan, Rao Bahadur R.
Sriramulu, Mr. G.
Subbarayan, Dr. P.
Subrahmanya Chetti, Rao Sahib P.
Subrahmanya Bhatt, Mr. U. C.
Sundara Rao Nayudu, Mr. T.
Syed Tajuddin Sahib Bahadur, Khan Sahib

Thangal, Mr. P. M.
Thomas, Mr. Daniel.
Thorne, C.I.E., I.C.S., Mr. J. A.
Vasudeva Pillai, Mr. V. G.
Vedachala Mudaliyar, Mr. M.
Venkatachala Reddiyar, Mr. K. C. M.
Venkatarama Ayyar, Mr. K. R.
Venugopal Nayudu, Rao Bahadur R. K.
Viswanatha Rao, Diwan Bahadur V. N.
Yahya Ali Sahib Bahadur, Khan Bahadur.
Yakub Hasan Sahib Bahadur.
Zamindar of Chemudu.
Zamindar of Kirlampudi.
Zamindar of Mirzapuram.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS

Agriculture

Action taken on the report regarding the fall in the price of coconuts.

* 582 Q.—Mr. A. B. SHETTY: Will the hon. the Minister for Public Works be pleased to state—

(a) whether the officer deputed by the Government to enquire into the causes of the fall in the price of coconuts has submitted his report; and

(b) whether the Government have considered the report and whether they propose to take any action in the matter?

A.—(a) The local Government have not deputed any officer. The Imperial Council of Agricultural Research has employed an officer to enquire into the conditions of the supply of coconut products in India. This officer has not yet completed the investigation.

(b) Does not arise.

Mr. A. B. SHETTY:—“ May I know whether this officer is working under the direction of the Local Government or whether he is carrying on his investigations independently of the Local Government? ”

The hon. Mr. P. T. RAJAN:—“ The officer is not working directly under the Local Government. ”

Mr. A. B. SHETTY:—“ It has been mentioned in the answer that the Imperial Council of Agricultural Research has employed an officer. May I know whether that officer is working as a subordinate to the Local Government? ”

The hon. Mr. P. T. RAJAN:—“ The officer is working on behalf of the Imperial Council of Agricultural Research and the Director of Agriculture is giving him directions for the work. ”

Diwan Bahadur C. S. RATNASABHAPATI MUDALIYAR:—“ May I know, Sir, which are the coconut producing districts? ”

The hon. Mr. P. T. RAJAN:—“ I cannot reply offhand. ”

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Mr. U. C. SUBRAHMANYA BHATT:—" May I know which districts are going to be investigated by this officer? "

The hon. Mr. P. T. RAJAN:—" I think all those districts where there is coconut cultivation are under investigation by this officer."

Mr. U. C. SUBRAHMANYA BHATT:—" May I know whether South Kanara is within his scope? "

The hon. Mr. P. T. RAJAN:—" If South Kanara is a coconut producing country, it will certainly be under his investigation."

Mr. V. M. RAMASWAMI MUDALIYAR:—" May I know whether the Madras Government is getting in touch with this officer? "

The hon. Mr. P. T. RAJAN:—" I do not think the Government need be in touch with this officer. But I think that officer would send a copy of the report of the work which he sends to the Imperial Council of Research to this Government also."

Diwan Bahadur C. S. RATNASABHAPATI MUDALIYAR:—" May I know whether agricultural research includes the growing of coconut trees also? "

The hon. Mr. P. T. RAJAN:—" Yes."

Mr. V. M. RAMASWAMI MUDALIYAR:—" May I ask whether the Madras Government have issued instructions to coconut growers that they may make any representations to this officer? "

The hon. Mr. P. T. RAJAN:—" It is open to anybody to make representations to this officer."

Khan Bahadur Mahmud SCHAMNAD SAHIB Bahadur:—" May I know what kind of researches this officer is making; is it about marketing or improving the growth of coconuts or what? "

The hon. Mr. P. T. RAJAN:—" In all matters affecting the coconut."

Registration

Posting to the sub-registry offices in South Kanara of clerks unacquainted with the local language.

* 583 Q.—Mr. A. B. SHETTY: Will the hon. the Minister for Public Works be pleased to state—

(a) whether the Madras Services Commission have allotted for service as clerks in the sub-registry offices in South Kanara, candidates who do not know the local vernacular; and

(b) whether such men posted as clerks have been found unable to do the work required of them?

A.—In February 1933, the Collector of South Kanara had to allot Malayali candidates, who were next in order in the approved list of candidates for the South Kanara district, published by the Madras Services Commission, to the offices of the sub-registrars of Coondapoor and Udipi to fill places caused by leave vacancies. The Sub-Registrar, Udipi, reported that

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the clerk did not know Kanarese and that no work could be assigned to him. In March 1933, the Registrar of Assurances brought to notice a few instances in which clerks who did not know the local vernacular were posted to the sub-offices in his district and stated that work in those offices had been dislocated. The question of the amendment of the Madras Ministerial Service Rules so as to remove such difficulties is under consideration.

Provincial Finance.

Admissibility of travelling allowance under rule 95 of the Madras Travelling Allowance Rules.

* 584 Q.—Khan Bahadur P. KHALIF-UL-LAH SAHIB Bahadur: Will the hon. the Member for Finance be pleased to state—

(a) whether it is a fact that the Government have issued a Government Order in June 1933 amending rule 95 of the Madras Travelling Allowance Rules;

(b) whether in that Government Order, travelling allowance for journey to obtain second medical opinion in support of an application for extension of leave has been permitted;

(c) whether, with reference to the permission referred to in clause (b), petitions claiming travelling allowance under the Government Order cited above, have been received by the Government from and after June 1933; and

(d) if so, in which of the departments travelling allowance was sanctioned and in which of the departments travelling allowance was refused in such cases?

A.—(a) Yes.

(b) Subject to the restrictions laid down in the rule, it was intended to cover a journey to obtain a second medical opinion in support of an application for extension of leave and the rule was amended in June 1933 to make the intention clear.

(c) Claims under the rule do not require the sanction of Government, but may be sanctioned by the authorities specified in the rule. Only two cases have come to the notice of Government, one in the Revenue Department and another in the Law Department.

(d) The claims were refused in both the cases.

Irrigation

The Pennar-Kumudavathi project.

* 585 Q.—MR. G. LAKSHMANA REDDI: Will the hon. the Member for Revenue be pleased to state at what stage the Pennar-Kumudavathi project is (in Anantapur district)?

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A.—On an examination of the scheme based on an estimate prepared in 1930, it was considered desirable to have the question of the availability of supply further examined by taking gaugings, for a period of five years, before coming to a conclusion on the feasibility of the scheme. For this purpose the Chief Engineer requires a special staff of one overseer and one gumasta for a period of seven months in each of five years, but it has not been possible till now, on account of financial stringency, to accord sanction to the employment of this staff.

Progress of the Tippayapalem project.

* 586 Q.—S. M. K. BEYABANI SAHIB Bahadur: Will the hon. the Member for Revenue be pleased to state—

(a) when the Tippayapalem project (Kurnool) was taken up and how much work is completed;

(b) whether the project will be ready by the end of 1934; and

(c) whether any Special Officer has been deputed to finish the work earlier?

A.—(a) It was taken up in 1931 but after an expenditure of Rs. 1,400 was incurred it was stopped owing to retrenchment. It was resumed in November 1932. The masonry core wall up to level + 550.00 including concrete has been completed between longitudinal sections 177 and 325. Masonry in the right flank weir has been raised to + 558.00 in the upstream wing and to + 563.00 in the other portions, except at the abutment, where the work has been stopped at + 556.00. The construction of temporary quarters for clerks and improvements to section officers' quarters have been completed.

(b) No.

(c) The work has been under execution by a special subdivision from the beginning.

S. M. K. BEYABANI SAHIB Bahadur:—"With reference to the answer given to clause (b), may I know what difficulties the Government have in finishing this project by the end of 1934?"

The hon. Sir ARCHIBALD CAMPBELL:—"It is not possible to finish it earlier."

Execution of drainage schemes recommended by the Settlement Officer, Guntur district.

* 587 Q.—Mr. P. V. KRISHNAYYA CHAUDARI: Will the hon. the Member for Revenue be pleased to state—

(a) whether the Government have received the information called for by them referred to in question No. 296, dated 2nd November 1933, from the officer concerned;

(b) if so, whether they will be pleased to lay it on the table of this House;

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(c) what the reasons are for not completing all the works till now; and

(d) whether it is a fact that in proposing the increased rate of land revenue, the cost of these drainage works was also included?

A.—(a) to (c) The report of the Chief Engineer for Irrigation has not yet been received.

(d) No.

Mr. P. V. KRISHNAYYA CHOUDARI:—" May I know whether it is not a fact that during the last settlement the land revenue rates were excessively charged for drainage purposes, etc., in Guntur district? "

The hon. Sir ARCHIBALD CAMPBELL:—" The answer is given in clause (d) of the answer."

Mr. P. V. KRISHNAYYA CHOUDARI:—" Sir, it was clearly stated in the Settlement Report that the increased rate was for the drainage works also."

The hon. Sir ARCHIBALD CAMPBELL:—" We are not able to trace such a statement in the Settlement Report."

Security deposits for provision of pipe sluices from the ryots in the Kistna delta.

* 588 Q.—Mr. G. SIMHACHALAM PANTULU: Will the hon. the Member for Revenue be pleased to state—

(a) whether the Government are aware of the fact that security deposits are demanded by Public Works Department officers for providing pipe sluices from ryots in the Kistna delta;

(b) whether the Government are aware of the fact that even on the payment of security deposits the ryots are asked to get their own pipes at their cost and fix them for the irrigation of the lands; and

(c) whether there are any standing orders governing the fixing up of pipe sluices for the irrigation of lands?

A.—(a) to (c) The Government have not the information but they have called for a report.

Mr. G. SIMHACHALAM PANTULU:—" May I ask the hon. Member to place a copy of the report when it is received on the table of the House? "

The hon. Sir ARCHIBALD CAMPBELL:—" The hon. Member's suggestion will be considered on receipt of the report."

Land Revenue Administration

Attachment and sale of lands in South Kanara for arrears of land revenue.

* 589 Q.—Mr. A. B. SHETTY: Will the hon. the Member for Revenue be pleased to state—

(a) the number of defaulters whose lands were attached and the number of defaulters whose lands were sold for realizing the land revenue arrears of fasli 1342 in South Kanara;

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(b) the extent of land attached and the extent of land sold for realizing the said arrears; and

(c) the amount realized by such sales and the amount still remaining uncollected?

A.—(a) The number of defaulters whose lands were attached is 1,650. The number of defaulters whose lands were sold is 172.

(b) The extent attached is 2,953 acres of dry and 2,971 acres of wet land. The extent sold is 400 acres of dry land and 242 acres of wet land.

(c) The amount realized by such sales is Rs. 12,569. The Government have no information whether any portion of amount for the recovery of which land was sold still remains to be collected.

Mr. A. B. SHETTY:—" May I ask whether the Government are aware of the price per acre of wet and dry land in South Kanara? "

The hon. Sir ARCHIBALD CAMPBELL:—" I must ask for notice of that question."

Electricity

Progress of the Mettur Hydro-Electric Scheme.

* 590 Q.—Mr. K. A. NACHIYAPPA GOUNDER: Will the hon. the Law Member be pleased to state—

(a) at what stage the Hydro-electric scheme at Mettur is;

(b) to what places supply of current is to be made from there;

(c) when this scheme is likely to be completed and linked up; and

(d) what the charges which the Government propose to levy for the current to be supplied from this scheme are?

A.—(a), (b), (c) & (d) The hon. Member is referred to the answer given to question No. 368 at the meeting of the Legislative Council held on 4th November 1933. The position remains unchanged since that answer was given.

Diwan Bahadur C. S. RATNASABHAPATI MUDALIYAR:—" May I ask whether the position remains unchanged since November last and during the last four months nothing was done? "

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—" I am sure that the Chief Engineer for Electricity is engaged in the preparation of detailed plans and estimates."

Arms and Ammunition

Stoppage of issue of renewal licences for automatic firearms.

* 591 Q.—Mr. G. LAKSHMANA REDDI: Will the hon. the Home Member be pleased to state—

(a) whether any orders have been issued to the District Magistrates not to grant renewals of licences for automatic firearms; and

(b) if so, the reasons for issuing such orders?

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A.—(a) No, but instructions have been issued that the orders of Government should be taken before renewing licences for such weapons.

(b) Does not arise.

Mr. G. LAKSHMANA REDDI:—" May I ask the hon. the Home Member why Government insist upon orders being taken from them by the District Magistrates before renewing licences for automatic weapons? "

The hon. Sir MAHOMED USMAN:—" Because automatic weapons can easily be concealed or stolen and Government want that proper attention should be paid before licence is granted."

Mr. V. T. ARASU:—" May I ask the hon. the Home Member the difference between an automatic weapon and a revolver? "

The hon. Sir MAHOMED USMAN:—" From my point of view, an automatic weapon can be concealed or stolen more easily than a revolver."

Law and Order (General)

Arrests and conviction and discharge since June 1933 for offences of a political nature.

* 592 Q.—Mr. K. A. NACHIVAPPA GOUNDER: Will the hon. the Home Member be pleased to state—

(a) what the number is of arrests of a political nature made in each month since June 1933 in each district; and

(b) how many have been convicted and how many have been let off?

A.—(a) The information is not available.

(b) A statement * showing the number of persons convicted of offences connected with the civil disobedience movement in each month since June 1933 in each district is placed on the table.

Mr. U. C. SUBRAHMANYA BHATT:—" In view of the fact that civil disobedience movement is not existing now, may I ask whether the hon. the Home Member will consider the advisability of releasing those people who have been sentenced but who are still in jail? "

The hon. Sir MAHOMED USMAN:—" I must ask for notice of that question."

UNSTARRED QUESTIONS

Irrigation

Provision of a flood bank to the Korayar river in the Srivilliputtur taluk.

593 Q.—Mr. M. D. T. RANGANATHA MUDALIYAR: Will the hon. the Member for Revenue be pleased to lay on the Council table the report received in answer to question No. 445 asked at the meeting of the Council on 10th November 1933?

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A.—The several clauses of question No. 445 are answered in the annexure.^a

Labour

Economic enquiry concerning industrial workmen and artisans.

594 Q.—Rao Sahib Pandit GANALA RAMAMURTI: Will the hon. the Home Member be pleased to state whether it is a fact that the Government are contemplating an enquiry regarding the present economic condition of the industrial workmen and artisans in this Presidency including their family budgets?

A.—The Royal Commission on Labour recommended that enquiries into the family budgets of industrial workers should be undertaken in Madras. The recommendation is receiving the attention of Government.

Police

Observations of the Assistant Sessions Judge, Calicut, on the conduct of the Police officer concerned in the investigation of the case of defalcation in the Malabar District Educational Council.

595 Q.—Mr. P. MADHUSOODHANAN THANGAL: Will the hon. the Home Member be pleased to state—

(a) whether the Government are aware of the dismissal of the Malabar District Educational Council defalcation case on 20th November 1933 from the Court of the Assistant Sessions Judge of Calicut and the grave allegation made in the judgment against the conduct of the Police officer or officers responsible for the enquiry of the case; and

(b) in the light of the disclosures made in the judgment, whether the Government are intending to hold any enquiry or take any action in the matter?

A.—(a) Yes.

(b) The Inspector-General of Police has been asked to report.

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

NON-OFFICIAL BUSINESS.

II.—A BILL TO AMEND THE MADRAS IMPARTIBLE ESTATES ACT, 1904 (BILL No. 11 OF 1932).

* The hon. the PRESIDENT:—"The House will now proceed with the discussion on the motion that the Madras Impartible Estates Act Amendment Bill (Bill No. 11 of 1932) as reported on by the Select Committee be taken into consideration."

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Mr. SAMI VENKATACHALAM CHETTI:—" May I know if this is in pursuance of an agreement that this Bill might be deferred to a later date? "

* **The hon. the PRESIDENT:**—" I think so. The agreement reached the other day was that the Bill should be deferred to a later date. Even otherwise nothing will stand in the way of our taking it up now."

* **The KUMARARAJA OF VENKATAGIRI:**—" Sir, I beg to move that the consideration of this Bill be adjourned till the next available non-official day. I make this suggestion because those of us who are interested in the Bill met last night to see whether an agreement was possible to be arrived at on the various amendments that have been given notice of. I, therefore, move that the Bill may be adjourned till the next available non-official day in order to enable us to arrive at an understanding on the various amendments."

Mr. V. P. NARAYANAN NAMBIYAR:—" I second it."

Mr. ABDUL HAMEED KHAN:—" Sir, the other day when a motion of this nature was brought forward by one of the hon. Members of this House, I said that, if hon. Members of this House chose to amend any Act, they must do so with a full sense of their responsibility to the Members of this House. Before they introduce any Bill, they must see what they are about. They must expect that there would be opposition to some of the provisions. I therefore respectfully point out to the hon. Mover that he is really not doing justice either to the cause that he espouses or to the Members of this House when he says that he is carrying on negotiations with a view to arrive at an agreement and that the consideration of this Bill should be postponed. As I said the other day, the Select Committee met a number of times and discussed the various provisions of the Bill. They also postponed the consideration of the Bill for some time. Hon. Members whose interests were affected were there and they expressed their opinions. I thought an agreement was reached unanimously at the Select Committee. I do not know what has happened subsequently that has necessitated the starting of negotiations on the part of Members of this House. The House would like to know all those facts. The hon. Member who moved for the adjournment of the consideration of the Bill said that he wished it to be adjourned till the next available non-official day. Of course, I know that the hon. the Leader of the House has told us that His Excellency the Governor will not allow us another non-official day during this session. Therefore, if the hon. the Mover of the Bill is agreeable to give up his own Bill, I have no objection; but is it certainly due to this House that, when Bills are brought forward, they are brought forward with a certain sense of responsibility. If they had no mind to carry them through, they ought not to have introduced them at all."

* **Rao Bahadur Sir A. P. PATRO:**—" I appreciate the vicarious suffering which the hon. Member who spoke before me would experience

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by a postponement of the consideration of this Bill. The hon. Mover of the adjournment motion has shown that there are important and radical changes in the provisions of the Bill with regard to the claims on the estates by decree-holders and by those who claim maintenance. The amendments given notice of by the hon. Member, the Kumara Raja of Venkatagiri, are also radical. These are things which cannot be easily disposed of. The persons affected are zamindars of impartible estates and the Mover also feels that an important measure like this which affects primarily the rights of the various impartible estate-holders should not be hurried through. Already the decisions on the rights of maintenance as reported in 16 Madras and other cases are so complicated and conflicting that we cannot hastily consider this measure in view of the large number of amendments that have been given notice of. Therefore, when there is an agreement between those who will be affected by this measure, I do not see any reason why there should be any opposition from any quarter whatever may be the vicarious suffering they may imagine to be undergoing." 11-15 a.m.

* Sriman M. G. PATNAIK Mahasayo:—"Sir, this Bill affects the zamindars most and therefore there is no use of rushing through it without convincing them that the Bill should be passed in a particular form. In our negotiations with them, we find that they are earnest in coming to a certain agreement on this question. We sat twice yesterday and we have agreed upon certain amendments of which we have given notice. The form of these amendments is being considered by the zamindars themselves. It is necessary that there should be some agreement between the parties concerned and in order to facilitate that, we should postpone the consideration of the Bill to the next non-official day. I appreciate the point of view of the hon. Member, Mr. Hameed Khan. He was the Chairman of the Select Committee and he knows a good deal about this question. Some of the zamindars attended the Select Committee and some considered carefully the provisions of the Bill, but there are many zamindars who did not pay attention to the provisions of the Bill and there is no harm in giving them an opportunity to consider them carefully, so that we may arrive at an agreement satisfactory to all concerned. It is with this object in view, I have agreed to the postponement of the consideration of the Bill."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, I have only to say that from the point of view of Government, I have no objection to the adjournment of this measure. In fact, I should like the Bill to be adjourned if new proposals are going to be made on behalf of one party or the other. The Government have already examined the proposals on the agenda and, if new proposals representing any agreement between hon. Members representing zamindars and hon. Members representing the other party are to be brought forward, I should prefer that the Bill should be adjourned rather than that such new proposals should be brought before the Government quite suddenly."

The question that the consideration of the Bill be adjourned to the next non-official day was put and carried.

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III.—A BILL FURTHER TO AMEND THE MADRAS IMPARTIBLE ESTATES ACT, 1904, FOR CERTAIN PURPOSES (BILL No. 17 OF 1933).

Mr. A. V. BHANOJI RAO:—"Mr. President, Sir, I beg to move that the Bill further to amend the Madras Impartible Estates Act, 1904, for certain purposes (Bill No. 17 of 1933), as amended by the Select Committee, be taken into consideration."

Mr. SAMI VENKATACHALAM CHETTI:—"Mr. President, I rise to a point of order with regard to the admissibility of taking up this subject just at present. I understand that at a previous sitting of this Council, this same subject was not allowed to be considered, because one hon. Member objected to it on the ground that sufficient notice had been given, and you upheld the objection. I take it therefore that the business has dropped out of the agenda. Otherwise, there is no reason why it could not have been taken up then and there and disposed of. If the procedure proposed to be adopted to-day is sought to be justified on the ground that the Bill can be taken up to-day as it has completed the 15 days' notice prescribed by Standing Orders, I beg to submit, in the first place, that the 15 days' period must be from the date on which the second notice was given and not from the date of the original notice."

"Apart from that, the business of non-official days is fixed in a certain manner. If I may invite your attention to page 2 of the Legislative Council Instructions, it gives the rules guiding the arrangement of the agenda for non-official days. In the first place, sufficient notice should be given whether of Bills or of Resolutions. They should be subject to a ballot and in the case of Bills, they should be arranged in the order of the stages to which they have advanced. After the ballot has been held and the relative positions of the various categories of business settled, you cannot transpose one category of business right across into another category of business. One category of business is Bills; that we have finished and that stage is over. However, if during the discussion of Bills, there has been a specific resolution of the Council postponing a particular item of business in that category for discussion at a later stage, then that procedure is governed by a different rule. But so long as that has not been done, so long as that item of business has gone out of the agenda for one reason or other—in this case, it was want of sufficient notice which was objected to and the objection was upheld by the President; but an item of business may drop out of the agenda for some other reason also, as for instance if the member in charge of it happens to be absent when it is called by the President—it is not possible for the Member to keep his old notice alive and have the business set down for discussion for another day, simply because the Council happens to sit on that day for the transaction of some other business. Mr. President, I beg of you to regard the objection as a very serious one. The Bill was given notice of at a particular time and that notice was not considered to be sufficient and the Bill was eliminated from the agenda. If it is possible for a non-official

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Member to give notice of his motion again and impose upon the Council that same business in the midst of other business, it would be impossible to carry on other business. If you create a precedent like that, it would be difficult for the Council to carry on other business. For instance, if Mr. Bhanoji Rao's Bill is to be taken up to-day, what will happen is all the resolutions which will have a chance of being discussed cannot be discussed to-day. The advantage which hon. Members who have balloted resolutions in their names have will be taken away from them by quite a devious method not contemplated in the Standing Orders.

"I should like to be enlightened if there is any justification for allowing this Bill to be taken into consideration while the House is engaged in dealing with resolutions which have been balloted. I do not think that even the hon. the President can allow a motion for the consideration of a Bill to be taken up unless it has undergone the incidents relating to such motions. That is to say, notice of the motion must have been given some days before and the motion must be balloted and put in its proper place on the agenda. I do not think even the hon. the President can waive these conditions. I am handicapped at present, because the hon. Member in charge of the Bill has not put forward any reasons why this Bill should be allowed to come up again at this stage. Before you give your ruling, Mr. President, I should like to hear what the other side has to say in justification of their bringing forward this Bill for the consideration of the House at a time when the House is engaged with resolutions."

* The hon. the PRESIDENT:—"I do not think it is necessary at this stage to ask the hon. the Mover of the Bill to state the reasons for the urgency of the Bill. As regards the point of order raised by the hon. Member from the City of Madras, I wish to inform him that Bills that have passed through a Select Committee need not be balloted for. For a motion that a Bill as reported on by the Select Committee be taken into consideration, no notice is prescribed by the Standing Orders. So, notice given on 30th January 1934 is perfectly valid for 1st February 1934."

MR. SAMI VENKATACHALAM CHETTI:—"What about Legislative Council Instruction No. 77 (1) on page 31?"

* The hon. the PRESIDENT:—"That is exactly what I was going to refer to. Instruction No. 77 (1) is the same as Standing Order No. 43 and it is applicable only to cases where copies of Bills have not been made available to the Members. I hope the hon. Member will read the Standing Order and the Instructions again for his own satisfaction."

MR. SAMI VENKATACHALAM CHETTI:—"I take it, Mr. President, that you have not made up your mind. If I may be permitted to speak, I should say, that I consider this procedure as a very serious encroachment upon the other business of the House. Otherwise, I have no motive whatever in raising this objection, especially to a Bill which does not affect any particular interest. The trouble is this. I take it

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that you admit, Mr. President, that this is the first time when such a difficulty has arisen. I hope the hon. the Leader of the House will give us his views in the matter. Now that the Advocate-General has just come into the House, may I repeat the arguments I advanced just now?"

* The hon. the PRESIDENT:—"The matter is so very clear that repetition is unnecessary. I hope the hon. Member will hear me through before he wants to say anything further on the subject."

Mr. SAMI VENKATACHALAM CHETTI:—"Provided you do not give a ruling at once."

* The hon. the PRESIDENT:—"I do not see why I should withhold my ruling once the point of order has been raised."

"The facts that on 25th January 1934 the Mover of the Bill had given notice of a similar motion and that on 30th January 1934 that motion could not be discussed as the Chair upheld an objection to its consideration on that day, do not operate as bars to this notice. Under Standing Order No. 7, the Secretary has to prepare a list of business for each day. He was therefore right in including and in fact he was bound to include Mr. Bhanoji Rao's motion for to-day. The motion has been duly put along with Bills and before resolutions in to-day's agenda. There was no consolidated list of business for all the three non-official days of this meeting and under Standing Order No. 7, there could be no such consolidated list. Owing to the operation of the rules as to notice, some of the items of business might be available for a later but not an earlier day and it is obvious that a consolidated list of business cannot be prepared for all the non-official days of a meeting, as the list could only be prepared with reference to the business available for the first day, and would exclude all other business which may be available for the subsequent days of a meeting. The only question is whether the Chair having upheld an objection to the consideration of the Bill on 30th January 1934 is now precluded from allowing such consideration to-day. As to this, I am quite clear that the Chair is not bound to disallow the motion to-day. I may add that though copies of the Bill were circulated by the Legislative Council office to hon. Members only on 19th January 1934, the Bill was published in the Gazette on 9th January 1934, and circulated to Members along with the gazette and copies were therefore available to Members for more than 15 days. I disallow the point of order raised by the hon. Member for the City of Madras."

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a.m.

* Mr. A. V. BHANOJI RAO:—"Sir, I beg to move—

'that the Bill, as amended by the Select Committee, be taken into consideration.'"

The RAJA OF KHALLIKOTE:—"I second it."

* Mr. T. C. SRINIVASA AYYANGAR:—"Mr. President, Sir, I move—

'that the Bill be recommitted to the same Select Committee for further report.'

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“ I desire to state at the outset that this motion is not made in any antagonistic spirit to the Bill but merely to see that suitable provisions are made which will meet the difficulties that inevitably arise from a composite Bill of this character. The original Impartible Estates Act, of which this Bill purports to be an amending Act, proceeds on a principle and policy which are somewhat in danger of being defeated in material particulars by this Bill. The original Act was the result of certain decisions of courts which gave a rude shock to the prevalent notion regarding inalienability of certain estates which were by custom impartible. Therefore after two temporary enactments, the permanent enactment, Act II of 1904, was placed on the statute book containing a schedule, the estates mentioned wherein were declared to be impartible for the purposes of that Act. The main point which will be obvious from that, is, that those estates were previously by custom impartible and were held by people for a long time to be also inalienable till certain decisions of courts. It was to restore in a sense and legalize the incidents understood to be existing before those decisions of courts, that that Act was passed.

“ The present Bill enlarges the scope of the original Act in certain directions. If this Bill becomes law, not only estates or fractions of estates which were previously by custom impartible at some time or another but also estates which were at no time impartible can come within the provisions of the Impartible Estates Act. Look at the definition which is introduced in this Bill. This definition is copied from Madras Act II of 1894, namely, the Proprietary Estates Village Service Act. That definition includes not only permanently settled estates but also permanent leases of villages from any of those estates and also inam villages. It is obvious that the introduction of such a definition will enable partible zamins and ordinary partible property to come within the scope of this Act. Is it the policy of the Government that any property and every property, whatever may be its legal incidents, can be made impartible and inalienable within the meaning of the Act?

“ The Bill deals with two subjects—exchange and alienation, alienation for the purpose of purchase with the proceeds of alienation. The case of exchange offers few difficulties legally. The property sought to be exchanged may assume the character of the impartible estate to which it would be tacked. The fraction of the impartible estate given away will cease to bear the characteristics of impartibility and inalienability. People having claim over the property exchanged may very well have the same remedies against the property which has taken the place of the one given away.

“ The case of alienation with a view to purchase property raises complications. An impartible estate has got certain legal incidents by custom and by law. They are not identical with the legal incidents attaching to an ordinary partible property. An ordinary partible property held by a family is subject not only to encumbrances specifically

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creating a charge thereon but also is subject to claims though unsecured in various ways. The members of the family have their rights of maintenance, unmarried girls should be maintained and the expenses of their marriage will have to be provided for. Even the credit of families is sustained by the possession of assets. Even simple creditors look to these properties as being the natural sources for satisfying their debts.

"In certain cases, if the holders of such properties sell away or alienate those properties under circumstances in which the creditors might be defeated or delayed, creditors have rights of action under the law by which the alienation can be set aside. In certain cases assignees in bankruptcy have got the means of avoiding these alienations within a limited time.

"The Bill provides that the Collector should certify that the alienation and acquisition are advantageous. The certificate, if it is to be valuable, should necessarily be the result of some investigation as to the propriety of the alienation and the advantage of acquiring the property in question. Where is the machinery and what are the provisions which are made in the Bill that would enable the Collector adequately to discharge this duty and grant the certificate? The certificate should be not merely that the alienation is advantageous but also that the acquisition is advantageous. Unless the Collector is satisfied that the property acquired is reasonably free from encumbrances and enforceable claims, how can such a certificate be given? A conclusive character is sought to be given to the certificate of the Collector. I should like the hon. the Revenue Member to enlighten the Council as to what the policy of the Government is generally in the matter of this Bill and what should be the range and extent of the investigation to be held by the Collector in the matter of this certificate. Unless careful provisions are made therefor, instead of the Bill being useful and advantageous to the zamindars, it is likely to be a fruitful source of difficulties and litigation. We cannot be sure that every aspect has been threshed out in the Select Committee. I don't mean any reflection on the Select Committee. I see that the characteristics of the property acquired would be altered. Therefore, I wish that the rights of the people who are likely to be involved, deserve further consideration in the Select Committee. I commend the proposition for the acceptance of the House."

MR. ABDUL HAMEED KHAN:—"Sir, I beg to second the motion. I think that the hon. Mover of the Bill will consider the various aspects of the matter put forward. As in the case of the other Bill, I think it is very necessary that some sort of agreement should be reached with regard to this Bill also. I hope therefore that the hon. Mover will agree to the recommitment of the Bill to the same Select Committee so that the various rights of the parties that will be affected may be considered over again by the Select Committee and the Bill may emerge from the Select Committee in a manner which will be acceptable to all the interests concerned."

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* Diwan Bahadur A. APPADURAI PILLAI:—"Sir, I oppose the motion brought forward by the hon. Member, Mr. Srinivasa Ayyangar, and seconded by Mr. Abdul Hameed Khan, to re-commit the Bill to the same Select Committee. The object of the Bill is explained in the Statement of Objects and Reasons—

'The advantages of this amendment are considerable to the big landholders, while it is in no way prejudicial to the interests of the ryots. Many of the estates of the bigger landholders are scattered and in these days when the administrative expenses are soaring up higher and higher, it is only right that they should, as far as possible, make their estates contiguous blocks and thus reduce the cost of administration. The spirit of the Impartible Estates Act, viz., to preserve the integrity of the ancient estates, is not violated in any way, but is, on the other hand, furthered by this amendment.

'As can be seen from the provisions of the amendment, sufficient safeguards are provided to prevent abuse of the powers conferred under it.'

"The landholders desire that they must be allowed to exchange small blocks of land in exchange for their own lands, in order that they may have a compact estate. Though there is no objection to this being done, there is at present no provision in the existing Impartible Estates Act. They cannot go now beyond the four walls of the present Act which prohibits not only alienation but also acquisition of fresh area. The Bill is advantageous to the landholders and is but necessary that this advantage should be conceded to them and its provisions in no way affect the interests of the ryots or the public.

"Further, the Bill contains only a few sections more or less of an enabling nature, to enable landholders to move in the right direction of consolidating their estates and removing the difficulties they are now labouring under. My hon. Friend, Mr. Srinivasa Ayyangar, referred to the fact that 'estate' as defined in the Bill is very comprehensive as it includes not only permanently settled estates, but also portions thereof, and particularly *inam* villages. I may remind the hon. Member that this definition is the one adopted in the Estates Land Act, and it has been borrowed from the Proprietary Estates Village Services Act II of 1894. The definition of 'estate' here refers only to section 4 of the Act, and clause 2 of the Bill definitely says:—

'For the purposes of clause (c) of sub-section (2) of section 4 and of sub-section (3) of section 4, "estate" etc.

"It would not alter in any way the character of the impartible estate, for this reason, Sir, that there is a schedule appended to the Impartible Estates Act; and it is stated there what estates are impartible and inalienable. A mere definition of the term 'estate' for the purposes of purchase or exchange as contemplated in the Bill would in no way alter the conditions of impartible estates or *inam* villages as such. This Bill, Sir, has been very carefully considered by the Select Committee and all possible objections that could be raised by the House or by the public have been fully taken into account. Care has also been taken, to make the Bill self-contained and to make it as simple as possible so as not to give room for any complaint on the part of the public or on the part of those interested in the

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proprietary estates. The Collector is the person who is intimately acquainted with the impartible estates in his own district. If an estate is situated in one or more districts, the Collectors of the districts concerned know the resources of the estates in their charge, how they are situated, whether they are better off or worse off in the matter of finance, administration, etc. If an estate is in a position to take in more land, the Collector will be the fittest person to know it. It was therefore thought by the Select Committee that the passing of the certificate by the Collector ought to be a sufficient guarantee of the bona fide of a proprietor's action. If anybody knows the actual condition of the impartible estate, it is the Collector, and I do not think any other authority could speak with an equal amount of authority as to the actual conditions of the estates. So, when the Collector gives the certificate, that should be enough. What is the transaction after all? The transaction refers to an exchange of a plot or the purchase of a plot. If the Collector certifies that the transaction can take place, there can be no objection or difficulty. The Bill also provides, Sir, that rules may be made by the Local Government to regulate 'the grant of certificates under the proviso to clause (c) of sub-section (2) of section 4 and generally for carrying out the purpose of the said clause.' The Local Government will naturally take care, in consultation with the hon. the Advocate-General to draw up a set of rules for the guidance of the Collector. Should the Collector refuse to give a certificate or should there be any difference of opinion, there is a higher authority, the Board of Revenue, to examine the Collector's orders and to pass such orders, as the case may require. I should think, Sir, that the interests of the landholders and the interests of the ryots in the estates and outside, are sufficiently safeguarded by the Bill. I do not therefore think that at this stage it is either desirable or necessary for a recommitment of this Bill to the Select Committee. I request my hon. Friend, the Mover of this motion, not to press it."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"Sir, as Mr. Srinivasa Ayyangar has explained, the object of this motion for a recommitment is to examine certain aspects of the Bill with a view to prevent any prejudice to the interests of the persons who are creditors of the owner of the property which is acquired either by exchange or by purchase . . ."

* Diwan Bahadur A. APPADURAI PILLAI:—"On a point of personal explanation, Mr. President. Such an amendment has been given notice of by my Friend, Mr. Muniswami Nayudu, and I suppose it will be considered in due course."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"I thank the hon. Member for the suggestion made; but we thought it would not be possible by this kind of amendment to deal with the question satisfactorily and that was why this motion for recommitment was given. If

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that question could be dealt with satisfactorily by any other suggestion that may be made by the Members on the other side, we are even now prepared to consider it. Our main difficulty is this: We do not object to the property being exchanged; we do not object to the new property when purchased being made impartible for all purposes under the Act; but what we are really concerned with is: if a person owns some property which is partible and if by reason of a certificate granted by the Collector, the property is purchased and is treated under this Bill as impartible, for all purposes, what becomes of the debts which were due by the owner of the property who has sold it, of the creditors who are entitled to proceed against that property? You will find, Sir, in the year 1904 when the Impartible Estates Act was passed, the position as decided by the Privy Council was that for the debts of the zamindar for the time being, whether they were charged debts or were personal debts, it was open to the creditor to proceed against the impartible estate and to bring the property to sale. The Act of 1904 took away from the date of its commencement, this power to bring the property to sale unless it be that the debt, whether it was secured or unsecured, was contracted for purposes laid down in the Act as being justifiable. So that whenever an application was made to recover the debts as against the owner of an estate, the question was whether the debt was justified and came within the four corners of Act II of 1904. If it did come within the four corners of the Act, of course the property was liable to be sold; if not, the creditor had to seek other remedies. When the Act of 1904 was passed, the legislature tried to provide for all those who had advanced loans to the owner of the estate for the time being, and all debts which were incurred before the passing of the Act, i.e., debts incurred before 1904, either secured or as a result of personal pro-notes were provided for, and in respect of those debts, you could proceed to sell the property even though those debts might not be justifiable under the Act of 1904. But if debts were incurred after the year 1904, then those debts had to be proved as justifiable debts. I want some such provision to be made in this Act. What we are now trying to do is to have a property which can be attached for personal debts converted into impartible property from the date this Act comes into force. What about the debts which have been incurred by the person whose property is going to be taken away like this and converted into an impartible estate? Can those debts be recovered as against the estate which becomes impartible in the ordinary method, by setting aside any part of the property as against those debts; or are you going to make those debts irrecoverable? If you do not make a provision now that on the date on which the estate becomes impartible if there are any debts incurred prior to that date, those debts will be recovered or paid up in a particular manner, there will be difficulty. You cannot proceed in respect of those debts and all that can be said is that you could take the money from the purchase money which the zamindar for the time being will pay to the person whose property is being acquired. There is absolutely no provision in the Bill as it has emerged

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from the Select Committee providing for such claims, personal claims, being safeguarded, as for instance, by saying that the money should not be handed over to the person who sells the property so that the present decree-holders may not be defrauded. We want some provision to be made that if a property becomes impartible by reason of this Act, all debts incurred by the person whose property is acquired shall be binding upon that estate even after the section comes into operation, or we should have a provision that when a sale is granted, the money which forms the consideration for the sale should be deposited with a certain officer, so that while the person who purchases the property gets a clear title to it, those who have claims, whether secured or unsecured, can proceed at least against the purchase money which is deposited. We have got similar provisions in the Land Acquisition Act where when a property is to be purchased the value thereof is held by the Collector as deposit, and subject to the decision of all those claims in a court of law, the money is held available with the Collector. That is why we have given amendments to the effect that wherever property which is purchased is sought to be converted into impartible property, it should be subject to the discharge of all liabilities or encumbrances which existed before the sale and also subject to the discharge of debts incurred personally by the owner of the property. Because we thought that it would not be possible on the floor of this House to have this particular amendment considered in all its aspects and because we could not know to what extent such an amendment would be acceptable to all the Members here, we wanted to go back to the Select Committee. We are not however anxious to go to the Select Committee; if the amendment that we have already given notice of will be discussed, at any rate by the Advocate-General, and if he will put it in a form which would take away all our misgivings, then there can be no difficulty whatever in adopting such a course. We only want on this side that a reasonable attitude should be taken by the Government. By all means purchase the property, make it impartible; but let the debts of the person whose property we are converting into impartible property be discharged either by the money being held up by the Collector and made available to the creditors or by the debts being made recoverable from the property although it becomes impartible."

12
noon.

* Sriman M. G. PATNAIK Mahasayo:—"Mr. President, Sir, two questions arise in connexion with this. The first question is whether a partible property can be impressed with the character of impartibility. The second point that arises in this connexion is, whether the debts or other encumbrances binding upon the partible property, is to be discharged by the owner of the impartible estate when it is impressed with the character of impartibility . . ."

Diwan Bahadur A. APPADURAI PILLAI:—"On a point of order, Mr. President, I am sorry I have to interfere in this discussion. The first point is not now under discussion and when the amendment actually comes to be introduced it may be taken into consideration. It will

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then be time to decide that question of the hon. Member may propose suitable amendments."

* The hon. the PRESIDENT:—"Let the House hear him through."

* Sriman M. G. PATNAIK Mahasayo:—"Now, Sir, so far as the first question is concerned, it is covered by the authority of the Privy Council which has held that a partible property can be impressed by the acquirer of the property with the character of impartibility. Supposing an owner of an impartible estate purchases some partible property and impresses such property with the character of impartibility, it becomes impartible property.

"Then with regard to the second question, I should like to know whether the debts or any encumbrances subsisting on the property have to be discharged by the owner of the impartible property who impresses that property with impartibility. This has to be considered. There is a provision in the Act of 1904, section 7, which runs thus:

'This Act shall not affect all alienations made or debts incurred before the coming into force of this Act and shall cease to apply to estates or parts of estates which may hereafter . . .'

We are here concerned only with the first part. This provision will be sufficient to safeguard the interests of third parties who may have a claim against that property either as creditors or otherwise. This provision, I think, may not be sufficient to safeguard the interests of third parties who may have some claim against the partible estate which is subsequently impressed with the character of impartibility. Therefore, it is necessary that some suitable provision should be made to safeguard the interests of third parties and I think nobody would have any objection to making some suitable provision. Of course, my hon. Friend, Mr. Muniswami Nayudu, suggested that the provision laid down under the Land Acquisition Act may be followed in these cases also. That is a very circuitous course and I do not think it will be a suitable method to follow. Therefore, the best thing would be to make some provision either by an alteration of section 7 of the Act or otherwise so that the rights of third parties to proceed against properties may remain unaffected by the partible property being declared impartible. If such a thing is done, there cannot be any difficulty. If that can be done, there is no necessity for the Bill being recommitted to the Select Committee."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, the Mover of this motion requested me to state what the Collector is expected to do under this Act. Sir, his responsibility is merely to protect the interests of the proprietor of the impartible estate and his heirs and he is not concerned with the civil rights of anybody else. That is all that the Collector is required to do. He will have to consider the question of the income likely to be derived from the portion of the estate which is to be purchased or received in exchange for the impartible estate or the portion which is to be alienated and he may also take into consideration such questions as convenience for purposes of administration. For example, if a zamindar in the Kistna district has as part of his

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estate some villages in the Tinnevely district, it may be advantageous to him to get rid of all those villages in the Tinnevely district in exchange for some villages in the Kistna district by means of a three-corner arrangement or direct exchange if that would be more convenient from the point of view of administration, although the villages in the Kistna district may not bring him quite as much income as the villages in the Tinnevely district; yet the change will serve the purpose of administrative convenience as he will be in much closer touch with his tenants. Those are the points which the Collector has to consider. I would resist any attempt to make the Collector go into questions which ought properly to be dealt with by civil courts and I shall also resist any attempt to make the Collector receive sale money, as he has nothing whatever to do with that. The only thing he is concerned with is to protect the interests of holders of impartible estates and their heirs.

"Now, Sir, as regards the main question raised, I understand that we may divide the debts into two classes—secured and unsecured—and when we are making certain villages form part of an impartible estate, secured debts will not be affected in any way and they will continue to be secured. But, as regards the unsecured debts of the person who formerly owned the estate which would now become an impartible estate, that owner will receive land in exchange for the land which he is losing, the unsecured debts will presumably become a liability on that land instead of on the land alienated to the proprietor of the impartible estate. The effect of that sale is a matter for the civil courts to decide under the civil law and it will be open to any debtor to apply for an injunction to stop the exchange even though the Collector has given a certificate. The certificate does not over-ride any powers of the civil court. The Bill does not provide that the transaction must be carried out if the certificate is issued but only that the transaction cannot be carried out without the certificate. The grant of this certificate will not affect the rights of anybody else. The question is largely a matter of interpretation of law I think, before a vote is taken on this question, probably the House would like to hear the Advocate-General."

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"Mr. President, to appreciate the points in controversy, it is necessary to keep distinct two classes of cases. One case is where an impartible estate is exchanged for an impartible estate. If it is a case of an exchange of one impartible estate for another impartible estate, it is merely a case of substitution and there is no difficulty whatever. If the property is already subject to any encumbrance, that encumbrance cannot be got rid of by any kind of exchange. If, on the other hand, it is a simple debt, that would under normal circumstances be binding on the new impartible estate that has been acquired in place of the old if the debt is of such a character as would be binding on the managing member of an undivided family. If, on the other hand, under the law, the debt is such as will not be binding upon the impartible estate, neither the old estate nor the new estate will be

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liable to that debt. To this extent, there is absolutely no change in the law, as it is merely a substitution of one kind of impartible estate for another kind of impartible estate. That is one case.

"Then the second question is what is the law if partible property is exchanged for impartible property. This Bill does not in any way affect the Hindu Law in regard to partible property. Merely because an impartible estate holder has obtained by way of exchange a partible property and impressed upon it the character of impartibility, the obligations under the ordinary law of partible property will not change. To-day, in the case of partible property, if a person alienates property the debts are not binding upon the alienee, unless it be the alienation is in fraud of the creditors. If in a particular case it is proved that the alienation of the partible property for the impartible property is in fraud of the creditors, under the ordinary law, it will be bad. If no fraud is proved, it stands in the same position as in the case of any other alienation of partible property by any partible owner. Supposing the alienation is made by a partible proprietor not with a view to defraud or delay creditors, the creditors cannot proceed against the property in the hands of the alienee, but can only proceed against the alienor. The same law will apply to transactions of the kind dealt with. The Bill leaves untouched the obligations and liabilities that arise out of an alienation of partible property and it does not in any way affect the right of family members to impeach the alienation of partible property if the alienation is in excess say of the powers of a manager or the powers of a father. (Mr. T. C. Srinivasa Ayyangar: What about unsecured debts?) I am not arguing before a court of law and even before a court of law the Judge gives me some time before I answer. Now, so far as the unsecured creditors are concerned, what I have already stated is elementary law. There is nothing to prevent a person alienating property simply because he has unsecured debts. The alienation will be bad only if the alienation is with a view to defraud or delay creditors. That law is left untouched by the provisions of the present Bill. That is my answer with regard to the position of unsecured creditors. You cannot in a Bill dealing with an amendment to an Impartible Estates Act, deal with the rights and obligations *inter se* of the partible family and their creditors. Such a provision will be out of place in an amendment to the Impartible Estates Act. The present Bill merely clothes the impartible estate holder with certain powers of alienation in excess of the powers which he possesses under the present Act. That is why provision is made in the rules to see that in a transaction for exchange, the Collector should satisfy himself that it is a *bona fide* transaction, that the parties mean real business and that the transaction is concluded satisfactorily. It will be difficult to provide for all that in an enactment. That is the general scheme of the Bill. The Bill does not in any way affect the rules of Hindu Law. For example, an impartible estate-holder can purchase property and impress upon that property the character of an impartible estate property. That is under the common law of India. Under the Hindu Law, there is

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nothing to prevent an impartible estate-holder from purchasing property and impressing upon it the character of impartibility. Does it mean that since the impartible estate-holder impresses upon the property the character of impartibility, the members of the partible family are in any way affected? They have every right to impeach an alienation where the circumstances warrant an attack on the alienation whether an impartible estate-holder seeks to make it impartible or does not make it impartible. The two positions are quite distinct. That, I think, is the scheme of the Bill."

Mr. T. SUNDARA RAO NAYUDU:—"I move that the question be now put."

* Mr. T. C. SRINIVASA AYYANGAR:—"Mr. President, after the exposition of the principles underlying the Bill both by the hon. the Revenue Member and the hon. the Advocate-General, one is tempted to think that it is absolutely a futile Bill. Up to now owners of impartible estates enjoyed, by virtue of a public policy, a certain amount of safety and permanency, ever since 1902 and certainly from 1904. Under this Bill which was conceived in the interests of such owners those estates which were assured permanency of property have been left to the tender mercies of all the laws that will affect the ordinary property, which is partible, alienable, attachable, saleable, etc. Surely, this Bill will be found later on to be a danger rather than an advantage to the impartible estate-holders.

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"But, however, I am not pleading for the zamindars; and I will leave the matter there. It is entirely a matter for the consideration of my hon. Friend, Mr. Bhanaji Rao.

"The hon. the Advocate-General with the lucidity so characteristic of him has given us an exposition of the general principles of law relating to partible properties. The hon. the Revenue Member has taken care to state that the Collectors shall not be dragged into deciding or dealing with any subject that would properly be the function and be a matter of decision by civil courts. The hon. the Revenue Member was anxious to safeguard the position of the Collectors leaving parties who have rights to resort to the appropriate tribunals. The Collector's certificate would therefore be merely one which enables the owner of the impartible estate to alienate the property and a conclusive character would really appertain to that aspect of that matter. But, the language in the Bill means more than what the hon. the Revenue Member intends. The certificate should be that not only the alienation but also the acquisition should be advantageous to the estates. How can there be any advantage when there is no sort of enquiry into the nature of the property and the claims thereon? Whatever may be the opinions expressed here whether by the hon. the Revenue Member or even by the Advocate-General, they will not be binding upon the courts of law who will only construe the expressions that are given in the enactment. The hon. the Advocate-General's speech makes the matter clear in one respect, namely, that no rights possessed by any person on the property that would be acquired either by exchange or by purchase by the owner

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of the impartible estate would be affected. Trying to visualize the position that emerges after the speeches of hon. Members, it comes to this: The certificate of the Collector would give finality to the alienation of the impartible estate or a fraction of it. The acquisition with the proceeds thereof may not be free from any encumbrances or charges or other enforceable claims against the property so acquired. By the operation of the existing Impartible Estates Act, one can very well presume that the impartible estates, since at least 1904, are free from speculative litigation; and their titles are safe. But, in its place, the property that may be acquired may not be as free and unencumbered as the one that is alienated. Possibly, the property acquired may become the subject-matter of litigation. Is it the benefit that the Bill seeks to confer or the result contemplated? Surely not. I believe, the object of the promoters of the Bill is to add to the advantages, convenience and security of the property. If so, there are not adequate provisions in the Bill.

“My hon. Friend, Mr. Appadurai Pillai, contemplates great benefits to the ryots by the provisions of the Bill. I don't see how those hopes are justified. He thinks that there is something very profound in the definition of estates contained in Madras Act II of 1894. Let it be so. But, what is its place in an Impartible Estates Act? Till now, impartible estates consisted of only one kind of property, with incidents well-known to that class of property. But, by virtue of this Bill and the incorporation in this Bill of the definition of estates contained in Act II of 1894, a great change is effected. An impartible estate may now consist of many varieties of property with distinct sets of incidents. I can give an example. Take the case of an estate, a big estate, with a set of inam villages on one side of it and certain lease-hold villages on another side. The zamindar thinks it would be advantageous to him if he gives away a few villages of his zamindari in exchange for the inam villages on the one side and the lease-hold villages on the other side. If these exchanges or acquisitions are accomplished, the erstwhile, homogeneous, impartible estate will now consist of three distinct types of property within one estate. The balance of the original estate would pay peshkash to Government, the inam villages would pay quit-rent to Government and porupu or jodi to some other zamindar, the lease-hold villages will pay lease amounts to another proprietor with no direct payment whatsoever to Government in the shape of peshkash or quit-rent. The lease-hold villages may perhaps be liable, in case of default, for payment of revenue to the Government by the other zamindars to whom porupu is payable. Is this a contingency contemplated by this Bill?

“There is yet another matter. The Advocate-General was thinking only of cases of fraud in alienations when he mentioned that unsecured creditors have no claim against properties in the hands of alienees. Is there no case whatsoever wherein claims not secured expressly upon properties have no remedies against them?”

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Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"If my Friend is right in that statement, that will continue to be the law even with this amendment. Whatever might be the rights those rights and obligations are left untouched by the provision of the amending Bill."

* Mr. T. C. SRINIVASA AYYANGAR:—"I am very much obliged to the Advocate-General. A simple statement requires many explanations. Is that the way in which we must present an enactment? Should not legislation set at rest all difficulties? We do not want to create a seed-bed of litigation and difficulties. There is a border land always for alienation and denial. Apart from creditors, there is a class of people who naturally and legitimately depend for their maintenance on various partible property. Should not some provision be made? Should not some provision be made regarding the rights of people which have to be duly safeguarded? I think the Bill requires further consideration for all these things. On the other hand, doubts and difficulties may be set at rest and considerations which are legitimately pertaining to the Bill may all be reconsidered by the Select Committee who may send a further report."

The amendment was put and lost.

The main motion that the Bill, as amended by the Select Committee, be taken into consideration, was put and carried.

Clause 1.

* The hon. Sir ARCHIBALD CAMPBELL:—"I do not wish to move my amendments," Sir. I gave notice of this motion when it was anticipated that Mr. Patnaik's Bill would come on. Now, it seems better to postpone this to the third reading if there is no objection."

Clause 1 was put and carried.

Clause 2.

* The hon. Sir ARCHIBALD CAMPBELL:—"I beg to move—

'In the new paragraph added by this clause—

(i) in line 2, for "section 4" in the second place where it occurs "that section," shall be substituted; and

(ii) at the end of clause (4), the word "or" shall be inserted.'

These are purely verbal amendments."

The hon. the RAJA OF BOBBILI:—"I second it."

The amendment was put and carried.

Clause 2, as amended, was put and carried.

a Clause 1.

The hon. Sir ARCHIBALD CAMPBELL:—

For the short title 'the Madras Impartible Estates (Amendment) Act, 1934,' substitute 'the Madras Impartible Estates (Second Amendment) Act, 1934.'

N.B.—This amendment will become necessary only if Mr. Patnaik's Bill—Bill No. 11 of 1932—is passed first.

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Clause 3.

* The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, Sir, I beg to move the following amendments:—

- ' (i) "alienate," "alienation" and "alienated" wherever the words occur shall be changed into "sell," "sale" and "sold" respectively.
- ' (ii) (a) In the proviso to clause (c) of sub-clause (1) in line 3 at page 4, the words "or estates" shall be omitted.
(b) In lines 14 and 15 at page 4, for the word and figure "section 9," the word and figure "sub-section (4)." shall be substituted.
(c) In the last line, the word "said" shall be omitted.
- ' (iii) At the end of sub-clause (1), the word "and" shall be inserted.
- ' (iv) Sub-clause (2) shall be recast as follows:—
 "(2) Sub-section (3) shall be renumbered (5) and the following shall be inserted as sub-sections (3) and (4), namely:—
 '(3) The estate or estates or part or parts of an estate or estates obtained in exchange for or acquired with the proceeds of the sale of an impartible estate or any part or parts thereof under clause (c) of sub-section (2) shall, for all the purposes of this Act, be deemed to be an impartible estate or to form part or parts of the impartible estate, as the case may be.
 (4) The Local Government may make rules for regulating the grant of certificates under the proviso to clause (c) of sub-section (2) and generally for carrying out the purposes of the said clause'."

"The object of the first amendment is to make it clear that the only alienation contemplated in this clause is by sale. The Select Committee makes it clear in its report that only exchange or sale of part or parts of an estate is contemplated. It is advisable therefore to use the word 'sale' instead of the wider term 'alienation,' which might cover a mortgage.

"The second amendment is to omit the words 'or estates' in the proviso of clause (c) of sub-clause (1). These words are unnecessary because the earlier and the later portions of the proviso refer only to one impartible estate. In this same amendment I propose to delete the word 'said' which is unnecessary. My third amendment, namely, the insertion of the word 'and' is a purely verbal amendment. The fourth one proposes to recast sub-clause (2). Clause 4 of the present Bill purports to add new section 9 to the Madras Impartible Estates Act; but the Bill of Mr. Patnaik, namely, Bill No. 11 of 1932, also proposes to insert new section 9. It will therefore be better to combine clause 4 of this Bill with

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sub-caluse (2) of clause 3 as proposed in this amendment. There is one verbal alteration. I propose the omission of the words 'of section 4' as they will be unnecessary."

The hon. the RAJA OF BOBBILI:—"I second it."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"May I suggest that items (i), (ii) and (iii) of this amendment may be put to vote separately from item (iv)?"

* The hon. the PRESIDENT:—"As suggested, I will put items (i), (ii) and (iii) of this amendment first."

The amendment exclusive of item (iv) was then put and carried.

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"Mr. President, to sub-section (3) as amended, I move the amendment standing in my name, namely, in the proposed sub-section (3), add at the end the following:—

'Provided that the estate so obtained or acquired shall be subject to all encumbrances subsisting thereon and be liable for all debts or claims enforceable against the owners from whom the estate was obtained or acquired on the date when it is so obtained or acquired.'

"I tried to explain the object of this to the Select Committee and also pointed out its relevancy to section 7 of the original Act of 1904. I hope, Sir, the hon. the Advocate-General would try to realize our difficulties and meet the same. On the other hand, with all the legal acumen at his command he simply brushes aside our objections by saying that it is now open to a party to alienate the property and that no unsecured creditor can have any claim on it and there is no necessity to make any provision. I should be glad if that was the attitude of the framers of the Act of 1904. You will see that what section 7 of that Act provides is where an estate was made impartible or inalienable, etc. What they did remove by that Act was the power to alienate. They put under certain restraint the power to alienate. Therefore the word 'impartible' was not appropriate. They took away the right to unrestricted alienation of the estate owner. While taking away that right they said that the right of alienation would inure for the benefit of those who had already advanced moneys to him and in whose favour either there was alienation existing or there was a debt existing. When this power was tried to be restricted, section 7 provided for that restriction not to operate in the case of alienations already made and in the case of debts which were purely personal. The object really was that all personal debts of the holder for the time being which were incurred before the passing of the Impartible Estates Act of 1904, should be considered to be, for the purpose of realization, as debts which could be proceeded against the estate in spite of the fact that from the date of the passing of that Act they were subject to restriction with regard to alienation. With regard to the debts incurred before the estate was declared impartible the property will be proceeded against as if the land was alienable. As regards debts incurred subsequently, liability existed only if the debts are justified. What I

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suggest is this: that as in 1904 even in respect of the estates where the power of alienation was curtailed, they provided for recourse against that property without any question whether the debt was legitimately incurred or not, I say that whatever property might be impressed with the character of impartibility under this Act, that could be curtailed by making available that property for the purpose of debts already incurred by the owner. The position is this: Evidently the hon. the Advocate-General has overlooked the provision in clause 4. The Collector says, he can purchase the property. The next section says: The estate or estates obtained in exchange or acquired with the proceeds of the sale of an impartible estate shall be deemed to be part of the impartible estate for all the purposes of this Act. The words 'obtained or acquired' would only mean this: If a sale transaction is there, you complete the transaction by taking a sale-deed. As soon as the sale-deed is taken, it becomes a completed transaction and the result is that thereafter that property could not be proceeded against in accordance with the law except under section 4 of the original Act. Section 4 says: The proprietor of an estate shall be incapable of alienating such estate or any part of it beyond his own life unless the alienation was made under justifiable circumstances. The result is that under section 3, on the date of the sale-deed the property becomes impartible. Thereafter the property could be alienated either by the landlord who was then owner or by the court at the instance of somebody under clause 4 only. It cannot be claimed by the original debtor that it was not impartible. If he makes that claim it could be met by the plea that by the sale itself it has become impartible property and that therefore all the provisions of the Act come into force. If in the plenitude of his power the hon. the Advocate-General should say that my interpretation is wrong, I will accept it. But that would not be binding on the courts. Anyway, we on this side of the House are entitled to put forth our views and if we are assured that our apprehensions are unfounded, nobody would be gladder. We submit, however, that if in 1904 in spite of the provisions made in the Impartible Estates Act, they found it necessary to make an exception in section 7, we do not see how the Advocate-General thinks that in 1934 such a provision is unnecessary in connexion with Acts declaring certain estates impartible for the first time. If reasons are forthcoming we can accept them. We cannot merely rely on the opinion of the Advocate-General. The matter must be cleared beyond all doubt. I therefore suggest that we should here make a provision similar to that made in section 7 of the original Act of 1904."

Mr. P. V. KRISHNAYYA CHOUDARI:—"I second the amendment."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, If I oppose this motion it is not with any intention of affecting the rights of any person. But this question was discussed in the Select Committee and we considered that any provision of this nature was unnecessary as the Bill now before the House will not affect the rights of third parties. I will leave the legal aspect of the case to be dealt with by the hon. the Advocate-General, making only one point myself. All that we propose to do by this Bill is to declare certain lands in certain circumstances to be

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an impartible estate or a part thereof. I would like to remind hon. Members of this House that this legislature has on several occasions in the past few years declared some estates to be impartible and have not adopted any proviso in the terms now suggested in connexion therewith."

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—" Mr. President, in the speech of the hon. Member, Mr. Muniswami Nayudu, there is a certain amount of misapprehension. The position of partible property which is the subject of exchange or sale is not the same as the position of an impartible estate which comes within the provisions of the Impartible Estates Act. As hon. Members are well aware, prior to the Impartible Estates Act, the estate owner was the absolute owner of his property, and every kind of alienation, be it for necessary purpose or be it not, was binding upon the holder of the estate and his successors in title. The object of the Impartible Estates Act was to put a restriction upon the powers of the holder for the time being. It was felt that it was not right that you should so affect the incidents of the Impartible Estates Act by the statute for the first time as to interfere with the rights of antecedent creditors, creditors prior to the passing of the Madras Impartible Estates Act. Therefore the Act readily provided that if there is a debt or an obligation which would, but for the passing of the Act, be binding upon the impartible estateholder, it must continue to be binding even after the passing of the Impartible Estates Act. That provision furnishes no analogy to the case under consideration. There was no complication of a partible estate with an impartible estate in that case. I have already pointed out with regard to the first motion, it leaves untouched the rights and obligations of the partible family. There is no provision in the Act which gives a statutory validity to the alienations made by the members of the partible family. They stand where they are. If their alienation is invalid or affected with an infirmity, even after the passing of this Bill, that alienation continues to be affected with that invalidity or infirmity, notwithstanding the fact that the owner who has bought it or got it by exchange is a member of the impartible estate and thus it is impartible by virtue of the provisions of the Act. It is not impartible as against the whole world; it is impartible only in the hands of this particular family. In every other case, suppose to-morrow, this very property is parted to a stranger for purposes of a necessity, in the hands of that family, this property will not be impartible. Therefore the impartible character is inextricably mixed up with the family in whose hands the property for the time being vests. Under these circumstances, I do not see any resemblance whatsoever between the provisions of section 7 of the original Impartible Estates Act and the attempt to safeguard the rights of creditors of the partible family. If that is the intention, then that will be a novel provision. Now what we are doing is to introduce a provision by way of amendment in the Impartible Estates Act, by which we are enlarging the powers of the impartible holder. By this he is in a position to enter into certain transactions, which he was not competent before. The property in his hands is impressed with all the incidents of impartibility. So far as third parties

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are concerned, the Bill does not in any way interfere with their rights. My hon. Friend, in another context, said: 'Oh, why should we have a Bill of that character which does not interfere with the rights of the partible family?' He must understand that at the same time we have not given a *carte blanche* to the members of the partible family. The rights and obligations of the partible family continue to be where they are at present. Thus what is aimed at by this amendment is to impart to the holder of the impartible estate the character of impartibility of a particular property so long as it is in his power; the moment that particular property passes away from his hands, it loses the character of impartibility. Thus the Bill does not aim at the rights of third parties at all. That is the short answer to the argument advanced by the party opposite."

* MR. K. R. VENKATARAMA AYYAR:—"Mr. President, Sir, I have been following the course of discussion in regard to this matter. I feel that except for a certain amount of confusion imported perhaps by those who are responsible for this amendment, it would be quite unnecessary to take up the time of the House with this amendment. The present Bill is not one which is intended or calculated to affect the rights of property or the rights of members of families from whom acquisitions are made by owners of impartible estates. This Bill has become a necessity, because under section 4 of the Impartible Estates Act, as it now stands, certain exchanges or sales which may be administratively necessary or convenient stand forbidden. In order to secure to the holders of impartible estates, as they stand at present in the present Act, this further latitude in the matter of exchanges and sales, this amending Bill has become necessary. And in order that the policy underlying the original Impartible Estates Act might not stand frustrated, care has been taken on the present occasion to maintain that policy by making the new latitude that is provided for the holder of the impartible estate dependant on the issue of a certificate by the executive official head of the district where the impartible estate is situated. That is all that is necessary in a matter of this kind consistently with the requirement that the policy of the original Act of 1904 be maintained. The holders of partible properties or portions thereof, from whom acquisitions are made by holders of impartible estates under the powers now claimed under this Bill, they are not constrained to give their consent to any compulsory acquisition from them. This Bill does not make it incumbent upon the holder of a partible property to part with it because it is to the advantage of the holder of the impartible estate to acquire a slice of the property of the partible holder. The liberty of refusing to part with his property enures in the head of a partible family, even if this Bill becomes law, as much as it existed before. Similarly the right of an impartible estate holder, from whom the acquisition is sought to be made, also continues intact. This Bill is not in the nature of compulsory land acquisition. If it were a compulsory acquisition as under the Land Acquisition Act, there might be some justification for introducing in this Bill also, other clauses, which might be felt to be necessary for the purpose of safeguarding the interests of those who would be interested in the property, which is compulsorily

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acquired from them. But this is not of such a character at all. This is only an enabling Bill, which permits the holder of an impartible estate, who is under the restraint imposed by section 4 of the original Act, to embark upon an exchange or sale of a part of his impartible estate, subject to the safeguard of his obtaining a certificate from the Collector, that it is a transaction necessary or beneficial. So far as the rights of the impartible estate-holder, from whom a slice is purported to be got by way of exchange or sale, or so far as the rights of the head of the family owning partible property, from whom a part of that property is sought to be purchased, are concerned, they are not at all affected by this Bill to any extent or in any manner. Their powers of disposing by way of exchange or sale in respect of properties would remain exactly as they were before, even if this Bill becomes law. If they could not part with their property before this Bill, they cannot part with it even after this Bill. To any infringement of their right persons interested can get an interdict from the judicial courts, and this same interdict they can obtain even after the passing of this Bill. Not only that, even if those who are entitled to have an interdict by a reference to law courts, did not take any anticipatory proceedings and get an injunction and so the transaction went through, and only afterwards they woke up and subsequently started proceedings questioning the validity of the transactions, in so far as the rights of these persons are affected, those proceedings again would stand absolutely safe and unaffected by this Bill. In fact it would be entirely foreign to the scope of this Bill for anybody to suggest that provisions should be introduced in this Bill, which would be either declaratory of the rights of members of the family from whom acquisitions are sought to be made, or which would safeguard those rights. Therefore it is absolutely foreign to this Bill to introduce provisions relating to the position and rights of third parties. Similarly with reference to creditors to whom debts are owing from a partible family or other family from whom the property is being acquired, if they are secured creditors, their security remains good, and the security will equally be available in the hands of the impartible holder who acquires that property by way of exchange or sale. If there are unsecured creditors, they will have all the other properties of the family to proceed against and even those newly acquired by sale or exchange. Thus the rights as between the creditor and the debtor remain unaffected.

“ It appears to me that the whole argument underlying this amendment is founded upon the supposition that somebody is compulsorily acquiring, as though by force of this statute. As this Bill is not in the nature of such a land acquisition, but only provides for a purely voluntary sale or exchange there is no necessity at all to bring into this Bill any such amendment as is moved by my hon. Friend, Mr. Muniswami Nayudu. I think you cannot really introduce this amendment with any relevancy or logic.”

1 p.m. * Rao Bahadur Sir A. P. PATRO:—“ Sir, the hon. Member from Madura concluded by saying that logic or reason would not justify the introduction of such an amendment. I am sure hon. Members will agree

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with me when I say that logic or reason would demand that he (the hon. Member from Madura) should not have spoken on this amendment for the reason that he spoke nothing. All the time he has devoted to dealing with a matter which is not the subject-matter before this House. The amendment of the hon. Member from Chittoor raised a reasonable apprehension. It was also raised by me in the Select Committee. The matter was fully considered and in consultation with the Advocate-General we decided that there was no room for any such apprehension. The apprehension raised in this amendment by the hon. Member from Chittoor is with reference to a partible property exchanged for an impartible property. The hon. the Advocate-General in his very lucid statement explained that the property that is acquired either by sale or exchange will be subject to the same incidents as before and the interests of those having interest in the property will not be jeopardized. If interest has accrued in the property, even after exchange such rights will not be interfered with. That is of course the answer to the apprehension raised in the amendment of my hon. Friend from Chittoor. I am sure the hon. Member from Chittoor is perfectly satisfied with the explanation given by the learned Advocate-General, and it passes my understanding as to what the hon. Member from Madura is speaking upon. Generally hair splitting is attributed to certain classes of lawyers. Here it is not even hair splitting. The hon. Member was talking quite outside the subject or the scope of the amendment. The amendment is a very simple one in that it wanted that the rights and liabilities accrued before the exchange of the property should not be interfered with. Now after hearing the learned Advocate-General, I hope the hon. Member from Chittoor will not press his amendment."

Mr. R. MADANAGOPAL NAYUDU :—" I move that the question be now put."

* Diwan Bahadur B. MUNISWAMI NAYUDU :—" Sir, although I am sure that my amendment will not be carried through yet I want just to say this much: It is not merely enough for the Government to say ' We have got a majority and so we oppose this amendment.' Sir, so far as this portion of the Bill is concerned, if there is some mistake and confusion on my part, I think there is equally some confusion on the part of the other side also. The Impartible Estates Act can be more appropriately called the Inalienable Estates Act. We do not find anywhere in the Impartible Estates Act that it is not partible. There is not a single provision there which states that it is not partible. On the other hand it provides for the safety of the estate. It tries to curtail the power of alienation. What I say is, when you are providing for impartibility and inalienability to certain estates to-day you must also provide for the safeguarding of such rights and liabilities which accrued upon those estates prior to the passing of this Act. I have nothing more to say."

The amendment was put and lost.

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Clause 3, sub-clause (2).

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"I beg to move that in the amendment of the hon. the Revenue Member the following amendment may be made and with your permission the words 'referred to in sub-section (3) above' in sub-clause (2) may be omitted and the words 'due by the owner of the estate which is acquired or obtained' may be substituted and also the first part of sub-clause (3) in the hon. the Revenue Member's amendment may be omitted:—

"The amendment of the hon. the Revenue Member with my proposed amendment will read thus—

'(4) *The Local Government may make rules—*

- "(1) *for regulating the grant of certificates under the proviso to clause (c) of sub-section (2), for giving due publicity of the proposals to all persons interested inviting them to prefer objections, if any, and for enquiry of the same;*
- (2) *for ensuring the due discharge of encumbrances, debts and claims due by the owner of the estate which is acquired or obtained;*
- (3) *and generally for carrying out the purposes of the said clause."*

"Sir, the stand taken by the hon. the Advocate-General is that if a person is entitled to sell his property, just as in the case of those who have got private debts their property is liable for all debts, here also the property is liable for all debts and encumbrances. All that I want to point out is that my request that if people want to proceed against this estate, they must be allowed to do so has been negatived on the ground that even otherwise their right is still there. I only request that there may be a reasonable chance given to persons who may have claims on the estate by way of private debts. They should be able to know whether the property is going to be transferred so that they may intervene if they like to intervene and claim their debts or obtain an order to see that their debts are satisfied. The object of my amendment is that the Government should provide for due protection of all parties concerned and they must also see that before the Collector grants the certificate he must be satisfied with the bona fides of the transaction, not merely from the point of view of the estate owners but also from the point of view of those who are affected by it, and that he should satisfy himself that from the money that is going to be paid to the estate owner all the debts and liabilities will be paid. I therefore move that this amendment may be accepted."

* Sriman M. G. PATNAIK Mahasayo:—"Sir, in spite of the opinion of the learned Advocate-General that the rights of the third parties will not be affected, we clearly say they will be affected, because section 7 does not apply to the case before the House. All that is stated in the Act of 1904 is that all claims accrued up to the date of the passing of that Act shall be met from the estate. But subsequently several estates

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have been impressed with the character of impartibility and any rights or interests that have accrued upon those estates should be safeguarded. Therefore, it is necessary that notice should be given to those who have got a claim upon such estates. Of course this is a small amendment and it should not be objected to by the other side."

* Mr. T. C. SRINIVASA AYYANGAR:—"Sir, I support the amendment not only from the point of view of those whose interests are said to be affected but also from the point of view of those who have got a claim on the estate by way of maintenance, and so on. Even in the interests of the impartible estate holders themselves who acquire these properties, it is absolutely essential that due publicity should be given and objections should be invited from those who are affected. I remember what the hon. the Revenue Member said was that the Collector's functions in this matter will not be in any way encroached upon by the duties of the civil court. Nor will he interfere with claims that are put forward and which involve civil rights. It will be merely his function when a property is acquired to impress it with the new character which is different from the one which previously appertained to it. If that is the intention of the hon. the Revenue Member, it is quite essential that due publicity should be given so that persons interested who have got a claim may put forward their claims. It would also be in the interests of the estate holders if they were to know finally the amount of claims that was being made upon their estates. When the estate is exchanged, it would be the proper occasion to give due publicity to it and if this is done it would also avoid much litigation."

* The hon. Sir ARCHIBALD CAMPBELL:—"I am afraid I must oppose this amendment. I have already explained to-day that the functions of the Collector should be confined simply to see that the interests of the proprietor of the impartible estate and his heirs are properly safeguarded and that it is not his business to carry out any duties which normally devolve on civil courts. Nor can I agree to laying upon the Collector any responsibility for ensuring the due discharge of encumbrances, debts and claims made upon the estate which is to be acquired. That seems to me to be the function of the civil courts, and we should not throw these duties upon the Collector. I have no objection to include in the rules a provision to ensure that due publicity is given to the proposed transaction, but I should object to the words 'all persons interested' being inserted in the statute itself. That would again throw a heavy responsibility upon the Collector. I should have no objection to include some provision in the rules whereby proposals of this character should be published in the district gazette. But I am not prepared to include in this section any specific provision on that point that will be inconsistent with the procedure which we should have to lay down for the Collector to follow. I oppose the amendment."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"Sir, I am not surprised at the attitude of the hon. the Revenue Member. Though this is a non-official Bill, this is really a Government Bill as the Government want to take all the powers directly or indirectly as in the case

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of a Government Bill. The hon. the Revenue Member said that all that the Government wanted to see was, that so far as the Collector was concerned, he had only to ascertain whether the sale was advantageous to the estate or not. I ask, Sir, how is the Collector to ascertain whether the sale is advantageous or not? The Collector receives an application from a landholder, let us suppose. He sits in a room and simply publishes a notification to the effect that he is going to give his sanction to the application. He does not invite any objections, nor does he consider them. The hon. the Revenue Member thinks that the Collector should not be troubled with the work of inviting objections and considering them. Then, is he merely to grant an application after mere publication in the gazette? Is that what the hon. the Revenue Member wants the Collector to do? I think, Sir, the Collector is as much the custodian of the rights and interests of the people who may be affected by his granting the application as the custodian of the rights and interests of the estate. For instance, there may be an objection from somebody that the proposed acquisition is not advantageous to the estate. In such a case, how is the Collector going to ascertain whether it would be advantageous to grant the application or not? "

* The hon. Sir ARCHIBALD CAMPBELL:—"I did not mean to say that the Collector should not listen to objections, but I objected to the provision that the Collector is bound to give notice to all persons interested in the estate such as the alleged creditors and others. Of course, the Collector will listen to any objections raised."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"I do not want that the Collector should find out X, Y and Z who are interested in the estate. All that I want is that the Collector should publish the notification in the gazette and invite objections from persons interested, in whatever manner it may be, in the acquisition. The hon. the Revenue Member says that he has no objection to the provision asking the Collector to invite objections and consider them before he grants the application. In that case, I do not see any real objection to the amendment as it stands. It only speaks of giving due publicity to the proposals to all persons interested inviting them to prefer objections, if any, and enquiring into the same. If he objects to the latter portion of the amendment—enquiry into the same—there is no meaning in giving publicity to the proposals and inviting objections if an enquiry is not held and the objections considered. If objections are invited, it must be with a view to enquire into the same. There is no meaning in inviting objections and granting the application without considering the objections. I submit, Sir, that the attitude of the hon. the Revenue Member is hardly one that is conducive to inspire a certain amount of faith in the Government, faith that they are acting not merely in the interests of persons who may have large estates but also of persons who may be interested in the estates in other ways. There is the other part of the amendment, namely, 'for ensuring the due discharge of encumbrances, debts and claims.' With regard to that, I think, from the debate that has taken place here, if the Government are mindful of their duties, they must take this opportunity of accept-

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ing this amendment. What is the Collector asked to do? He is asked to ascertain whether it is advantageous to and in the interests of the estate to grant the application. The learned Advocate-General has stated that even though the transaction takes place it is still liable to be impeached as any other transaction can be. Then what on earth is the use of the Collector's certificate, if persons who are interested in purchasing the estate have not the satisfaction that owing to the intervention of the Collector, some of the difficulties that might arise after the acquisition have not been removed? If the Collector is merely to receive the application and give his sanction there is no meaning in the owner of an estate getting his sanction if it is not clear thereby that after the acquisition has been sanctioned by him there will be no trouble, no suit or application whatsoever. It is not merely in the interests of the people who may have lent the money, but also in the interests of the zamindars themselves that the Collector should satisfy himself that the property that is going to be acquired is free from encumbrances and that nothing more need be paid for it than what the purchaser for the time being is prepared to pay."

The amendment was put and lost.

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"May I at this stage request you, Mr. President, to allow this Bill to be taken up after lunch? A Bill which has recently been passed by the Council has just been brought to my notice. In that Bill we find a clause corresponding to section 7 of the Act of 1904, which says that this Act shall not affect any alienation made or debts incurred and so on. An estate which is not declared to be an impartible estate by name is made an impartible estate by a clause of this kind. I think that a provision like clause 3 will be necessary. I only move for adjournment of this question for some time, so that the Government may have some time to consider it and change their minds. In all the Bills by which partible estates have been declared impartible, a section on the lines of clause 3 is inserted. I only want some time, so that the Government may consider this question once more before it is too late. I move that the further consideration of this Bill be adjourned till after lunch."

Dr. P. SUBBARAYAN:—"I second it."

Sir ALLADI KRISHNASWAMI AYYAR:—"Mr. President, Sir, I do not think there is any correspondence between . . ."

Mr. SAMI VENKATACHALAM CHETTI:—"On a point of order, Mr. President, the motion before the House is the motion for the adjournment of the consideration of this Bill till after lunch. We are not now discussing the partibility or impartibility of estates."

* The hon. the PRESIDENT:—"The Advocate-General is trying to show that there is no necessity to adjourn the consideration at all."

Mr. SAMI VENKATACHALAM CHETTI:—"By the time he finishes the lunch hour will have come."

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Dr. P. SUBBARAYAN:—“ If the Advocate-General has got any objection to this, he may very well explain it during the lunch interval and he will be better able to convince Mr. Muniswami Nayudu that the clause is not necessary.”

* The hon. the PRESIDENT:—“ The question is that the further consideration of the Bill be taken up after lunch.”

The motion was carried.

Mr. M. S. SRESHTA:—“ May we take a resolution now, Sir? ”

* The hon. the PRESIDENT:—“ The House will now adjourn and reassemble at half past two.”

After Lunch—(2-40 p.m.)

* Diwan Bahadur B. MUNISWAMI NAYUDU:—“ Sir, I beg to move the following amendment:—

‘ For clause 4 of the Bill substitute the following:—

‘ Nothing in this Act shall affect or prejudice the rights in law of the creditors or of the members of the family of the person from whom the estate is acquired by exchange or purchase.’

The object of this amendment is to provide, by way of caution, for the rights of parties who will be affected by this Bill. The original clause 4 has been deleted; it is made part of clause 3. I move that this may be added as clause 4 of the Bill.”

Mr. T. C. SRINIVASA AYYANGAR:—“ I second it.”

* The hon. Sir ARCHIBALD CAMPBELL:—“ Sir, I move that the consideration of this Bill be postponed till Monday, in order that this amendment may be examined by the Advocate-General. I understand that the principle of the amendment is accepted by all parties and the Advocate-General would like to have some time to examine the exact wording. Monday is an Official Day, but the Leader of the House has agreed that this may be taken up as the first business.”

* The hon. the PRESIDENT:—“ I may remind the House that clause 3 has not been put to vote. While that clause was under consideration, the motion for adjournment was accepted by the House. I shall put clause 3 as amended to the vote of the House.

“ The question is:—

(i) ‘ alienate ’, ‘ alienation ’ and ‘ alienated ’ wherever the words occur shall be changed into ‘ sell ’, ‘ sale ’ and ‘ sold ’ respectively.

(ii) (a) In the proviso to clause (o) of sub-clause (1) in line 3 at page 4, the words ‘ or estates ’ shall be omitted.

(b) In lines 14 and 15 at page 4, for the word and figure ‘ section 9 ’, the word and figure ‘ sub-section (4) ’ shall be substituted.

(c) In the last line, the word ‘ said ’ shall be omitted.

(iii) At the end of sub-clause (1), the word ‘ and ’ shall be inserted.

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(iv) *Sub-clause (2) shall be recast as follows:—*

‘(2) Sub-section (3) shall be renumbered (5) and the following shall be inserted as sub-sections (3) and (4), namely:—

“(3) The estate or estates or part or parts of an estate or estates obtained in exchange for or acquired with the proceeds of the sale of an impartible estate or any part or parts thereof under clause (c) of sub-section (2) shall, for all the purposes of this Act, be deemed to be an impartible estate or to form part or parts of the impartible estate, as the case may be.

(4) The Local Government may make rules for regulating the grant of certificates under the proviso to clause (c) of sub-section (2) and generally for carrying out the purposes of of the said clause ”’.

The amendment was carried.

The hon. Sir ARCHIBALD CAMPBELL:—“Sir, I beg to move that the further consideration of this Bill be adjourned till Monday morning.”

Mr. K. R. VENKATARAMA AYYAR:—“I second it.”

The motion was put and carried.

IV.—RESOLUTIONS ON MATTERS OF GENERAL PUBLIC INTEREST.

ENFORCEMENT OF COMMUNAL GOVERNMENT ORDER IN THE LOCAL BODIES IN THE PRESIDENCY.

* The hon. the PRESIDENT:—“The following resolution with the amendments moved already—on the agenda paper—by Messrs. Muniswami Pillai and Sreshta was under consideration on the last non-official day, i.e., on the 11th November 1933:—

‘This Council recommends to the Government to take early steps to enforce the communal Government Order in the local bodies in the Presidency.’

“Mr. Muniswami Pillai’s amendment is to *substitute* the word ‘immediate’ for the word ‘early’ and Mr. Sreshta’s amendment is to *insert* the words ‘the principle underlying’ after the word ‘enforce.’

“The resolution along with the amendments are for the consideration of the House.”

* Mr. M. DEVADASAN:—“Sir, I support the principal motion moved by my hon. Friend, Mr. Ahmed Miran Sahib, and the amendments moved by hon. Friends, Messrs. Muniswami Pillai and Sreshta. From the point of view of the Depressed Classes, I support the main resolution as amended. Before saying anything upon the necessity of introducing the principle underlying the Government Order enforcing communal rotation, I wish to place a few facts before this hon. House. I want to give a few instances which would show to the House that

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the enforcing of the principle of the communal rotation in service is absolutely necessary. I have got some experience as a municipal councillor. The municipalities do not take any member of Depressed Classes at all in a municipal office. In the panchayat boards also, none of the members of the Depressed Classes are employed. If Depressed Classes are employed by any panchayat board or municipality, they are employed not as clerks, not as sanitary inspectors or managers but as menial servants. They are employed more liberally as scavengers and others. Chairmen of municipalities, presidents of taluk boards and panchayat boards never care to take into consideration the applications of several Depressed Classes members and Christians for employment. Favourable consideration is given to the applications of relations of members of the panchayat boards, of presidents of local boards and of chairmen of municipal councils. The applications of other people are rejected. Applicants do not get even endorsements about the refusal of their applications.

“ I wish to make some remarks about the plight of the Depressed Classes and Christians in the service of the local bodies. A man who had rendered service in the war and who was qualified as a first-class sanitary inspector was appointed as such by the Corporation of Madras. According to the Government Orders issued by the Government the man who had seen military service to his credit must have preference over other men. This man had been in the military service for about eight years. When the permanent incumbent was reinstated in office, this man had to be sent away. Then this sanitary inspector applied to all the 81 municipalities in the Presidency for some appointment or other and his application was not cared for, the reason being that he is a helpless Christian not backed by any member of his community or a godfather. My hon. Friends, Messrs. Pannirselvam and Daniel Thomas know the applicant. I must say that the claims of the Depressed Classes, of Christians or other minorities are not given proper consideration. On one occasion I had to go to the president of a taluk board and ask him to appoint a member of the Depressed Classes as a vaccinator. He said that he would give the first chance to the applicant. But he did not appoint him at all. By first chance he probably meant no chance. He has to go to other places in search of employment. If at all he is appointed, he is ousted in no time. I had to take up the case of a doctor who has passed the L.M.P. examination and we were able to secure him a post with very great difficulty in one of the rural dispensaries. He was posted to a particular place. A member of the taluk board objected to his being appointed because he thought that he would pollute the people when he administered medicine. So he was not posted to that place. He was later on sent to a less objectionable place as a doctor. There is always difficulty in securing appointments for the members of the Depressed Classes as vaccinators. I had to talk to an educated gentleman, a member of the Bar, on this matter. To my surprise, he had expressed the idea that, if vaccinators were appointed from among the Depressed Classes, people might object to their being vaccinated by them on the ground that they

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would be polluted. That is the way in which members of the Depressed Classes and Christians are treated in the mufassal. I need not say anything more. My hon. Friend, Mr. Moses, I understand, has introduced a Bill for enforcing communal rotation in the service of local boards. It is not comprehensive. Safeguards have also to be provided for in the matter of recruiting Depressed Classes and other menials for service in municipalities and Corporation of Madras.

“ Recently the hon. the Chief Minister introduced his Bill for the abolition of taluk boards. He has given us to understand that he would make provision for the appointment of commissioners who would consider the claims of all classes of people in local board service. There is much discontent and dissatisfaction about the treatment being meted out to members of the Depressed Classes by presidents of taluk and district boards and chairmen of municipalities. It may be argued that it may not be possible to give effect to communal rotation with regard to the service of taluk boards. I would suggest that, as far as practicable, communal rotation must be given effect to. The principle has been accepted by the Government wholesale. I do not therefore see any reason why the same principle should not be accepted with regard to service in local bodies. The Government have been very considerate and benevolent in the matter of treating the Depressed Classes. But the local bodies have not cared to concede the claims of the Depressed Classes and Christians in the same way as the Government have done. If the Government think that communal rotation should be given effect to in the matter of recruiting men in Government service, then it must be made equally applicable to service in local bodies. With these words I support the resolution.”

* Mr. R. M. PALAT:—“ Sir, I wish to oppose this resolution to introduce communal representation. We have had too much of this communal representation question in this Council. The local bodies are elected on a much wider franchise than the Legislative Council, and most of them have, at least the Malabar District Board, has decided not to have this communal representation in the matter of appointments, etc. My predecessor has said that a lot of injustice has been done to certain communities; but he has given no figures to back up what he said. So far as I know, as president of the Malabar District Board, there is no complaint whatever that the claims of any community have been overlooked in my district. It is a negation of all popular rule to interfere with the internal affairs of the local bodies. Just as this Council expects the Government not to interfere with its internal administration, so also the local bodies expect that this Council, most of whose members are elected on a purely communal basis, and on a far more restricted franchise will not interfere with the affairs of local bodies which are not elected on such communal basis, on the same analogy of the British Parliament which is elected on a common basis. (Mr. Pannirselvam: ‘ There are no communities there.’) There are different religions, e.g., Roman Catholics, Protestants, etc., there just as there are different religions here. They all fight against each

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other, as much, if not more than the religions do in India. They are fighting there more than the Hindus and Muhamnadans do here in India and Mr. Pannirselvam knows it quite well. There are different communities in England, and the Parliament is elected on a non-communal basis; and still the Parliament does not think it fit to impose its method of non-communal election even on this Council. Similarly, Sir, this Council which is elected on a communal basis ought not to impose its will on the local bodies by laying down the principles which should be observed by them. If the Government are of opinion that the communal principle should be extended to the local bodies, I should say that the Government should also meet the extra expenditure thus imposed on these local bodies from out of Government funds, for persons thus appointed would be able to do but indifferent work and would in effect be but pensioners. We speaking on behalf of local bodies should not have people thrust on us. Each district board should be allowed to decide if it would accept communal representation and no general law should be laid down. We do not want to appoint any man simply because he belongs to a particular community although he may be unfit, and although we have infinitely better qualified people belonging to other communities. If the Government think we must do it, I request them to pay for such expenditure from out of their funds. We have after all to get the people who certainly can do the work and are fit to do it. The object of this resolution is: keep back the efficiency of the boards to that of the most backward community in the district."

* Rao Bahadur A. T. PANNIRSELVAM:—"Mr. President, I had no idea of interfering in this debate; and if I do so now, it is only because of the surprising speech of my Friend, the President of District Board of Malabar. He seems to have misunderstood the whole principle underlying this resolution. The resolution does not purport to advocate the cause of a man, qualified or unqualified, because of the particular community to which he belongs. In fact, the principle underlying communal representation in the various branches is this: that every community, if only you will take the trouble, can produce the men for the various kinds of work which are turned out in the various departments. All that this resolution seeks to advocate is this: if for a particular place you find two or three men with the necessary qualifications, give preference to the man who comes from that community which is not already adequately represented. That is the principle. My Friend's pleading for Government subsidizing the local bodies in order to enable him to give effect to communal representation seems therefore to be absolutely of no force. That at this hour my Friend, Mr. Palat, should have thought fit to question the justice of the principle of communal representation is, to say the least of it, surprising. If fifteen years ago when the Justice Party under the leadership of Dr. Nayar and Sir P. Theagaraya Chettiyar advocated the justice of this principle and when there were criticisms from all quarters, if this argument had been advanced, there might have been people to pat Mr. Palat on his back and say 'Here is a great

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nationalist.' But to-day, the justice of that claim has been accepted by everybody, not excluding my nationalist friends there. It has been accepted by the Government and for the past few years it has been worked in the various Government departments."

Mr. R. M. PALAT:—"On a point of personal explanation, it does not mean that I am not a nationalist; and it is not a question whether one is a nationalist or not. I only advocated the principle of appointments according to qualifications."

Rao Bahadur A. T. PANNIRSELVAM:—"I am glad, Sir, that Mr. Palat is to-day the President of the District Board of Malabar. I have been myself president of a district board for six years and during that time, it was a principle with me not to enforce communal representation in the various services under the district board; and I can say that I did not find the least difficulty in filling the posts with proper men, men qualified to discharge the work and with men who are even to-day discharging their work to the satisfaction of the public. And if my Friend, Mr. Palat, is having a different experience, I can only sympathize with him. But in doing so, I will only remind him of the number of L.T. teachers in the various board schools under the control of the Malabar District Board. Out of the total number of L.T. teachers, he has got in his district board, it might be that the depressed classes might not be able to produce a sufficient number of trained graduates; but I believe, Sir, the case is not the same in regard to my own community, the Indian Christian community. If the Indian Christian community is backward in every other sphere, at least in the field of education, it is far ahead of any other community. May I ask Mr. Palat to tell me how many Indian Christian teachers he has got in the district board schools? Is it anything more than one permanent and one acting man in a whole host of Brahman and Nayar teachers in the Malabar District Board?"

Mr. R. M. PALAT:—"A personal explanation, Sir. As regards the number of Indian Christian teachers in the Malabar District Board, it is not one; I think there are four or five of them. Their number is more than what their population warrants."

Rao Bahadur A. T. PANNIRSELVAM:—"I am glad, Sir, that my Friend, Mr. Palat, has given effect to the principle of communal representation as far as my community is concerned, in the Education department. I only ask that the excellent example Mr. Palat has set in regard to Indian Christians the Government should be prepared to accept and enforce so far as the other district boards and other local bodies are concerned. As far as the principle of introducing communal representation is concerned, I should have really thought that with the Justice Party once again in power, there would be absolutely no necessity for pressing on the Government the justice underlying this resolution. But at the same time, one or two recent instances have led me to think that a resolution of this sort is not altogether out of place. I speak subject to correction and I hope my information is wrong. But I have been told, Sir, that orders have been issued by the Government recently to certain municipalities and local bodies to

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the effect that the principle of communal rotation in the matter of recruitment to services is applicable only to the Government departments and that local bodies or municipalities who thought of enforcing it would be going beyond their powers if they did so. (An hon. Member: 'Is it so?') At least, that is what I was told. It was a communication sent to the Tuticorin Municipality when it claimed to fill a particular post on the principle of the communal representation. If that was true, I think, Sir, that a resolution of this sort does not come out of its way. It is time that we are told by the Government that this principle of communal representation which has been accepted and found good enough for the Government services ought also to be good enough for local boards."

* The hon. the RAJA OF BOBBILI:—"May I explain the position, Sir? Recently several cases came to the notice of the Government where certain local boards have sought to frame rules enforcing this communal Government Order. Certain objections have been also taken. In this connexion, Government took legal opinion and the local bodies were advised that under the Local Boards Act, as it now stands, it was beyond the powers of local bodies to frame rules on the lines of the communal Government Order. It does not mean that Government are against the principle being introduced in the local boards."

* Rao Bahadur A. T. PANNIRSELVAM:—"I am glad, Sir, that the Government Order has been based purely on a technical question; but framing rules which would have the force of law is absolutely different from framing rules for the guidance of local bodies. I remember, Sir, that so far back as ten years ago, in 1924, the District Board of Tanjore passed a resolution recommending to me the principle of giving equal representation to all communities. That was a resolution which was published, and to which the Government of the day did not demur. A local body might or might not have the power to frame rules which will have the force of law; but I do certainly feel that if any local body is so minded as to frame a rule for its own guidance, to be applied as far as circumstances would permit, the Government should not by any means interfere. If the Government are not even going to accept a resolution such as the one that has now been placed before the House, they should at least take this lesson that, if any local body, whether a district board or a municipality, or for the matter of that, a taluk board, if taluk boards are going to exist, says that for the sake of their own convenience, or if the majority of local boards think, that the principle of communal justice should be applied to the services under them, the Government should not stand in their way."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"I am glad, Sir, to support this motion on more than one ground. I think, Sir, it is too late in the day to say that in the matter of filling up appointments in the public services, whether under the Government or under local bodies or others, we should not fill them in a manner, that would satisfy all communities, provided as my hon. Friend, Mr. Pannirselvam, stated, that efficient and qualified candidates were available

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for those posts. But I believe, Sir, there is something behind the opposition of Mr. Palat in the matter. As president of a district board, no doubt, he does not want his own powers or influence to be curtailed, as to the persons whom he may select for appointment."

Mr. R. M. PALAT:—"On a point of personal explanation, Sir. It is entirely wrong to say so; there is no motive behind the suggestion which can be attributed to me."

Diwan Bahadur B. MUNISWAMI NAYUDU:—"Well, Sir, I may be wrong so far as he is concerned. But, at the same time if you mean to apply this principle, one has to be careful how this has to be applied. Merely laying down a principle saying that a certain community should be appointed provided suitable candidates are available, is not enough, because that is again likely to be abused when the appointing authority is not qualified to select such men. If you want to take away this thing and ensure the recruitment of efficient and competent persons, we ought to see that the power of recruitment is in the hands of a body of persons who are competent for the purpose and who could discharge their duties in a disinterested manner and select the best persons possible. Then the district boards should be asked to select only such men from out of the list of persons recommended by such a tribunal, as and when vacancies arise. I therefore think that, while accepting this proposition, Government will consider the possibility of appointing for each district or a group of districts a body who would be entrusted with the duty of inviting applications and selecting men with the necessary qualifications and having a list prepared of competent men, so that from out of that list appointments may be made. If such a thing is not going to be done, I think the present system is as good and may continue as it does at the present moment. On the other hand, I am sure that this proposal of mine could not be objected to by, at any rate, the members of the Brahman community, because, barring one, all the presidents of all the district boards are non-Brahmans. The time has therefore come, not to protect the non-Brahman against the Brahman, but to protect the interests of various communities among the non-Brahmans themselves from being unfairly dealt with in the matter of appointments. 3-15 P.M.

"Then, Sir, the Government have taken up the question of amending the Local Boards Act. The hon. the Chief Minister has explained that the Government were advised as a matter of legal opinion that the district boards could not lay down rules to the extent contemplated in this resolution. I say, it will be up to them to take power under the new amending Act and lay down some salutary principle that in the matter of recruitment of persons to these local bodies the claims of various communities are given proper consideration. I proceed further, that when such powers are taken, Government will consider the possibility of appointing persons from among the list prepared by the body to which I have referred.

"Now, Sir, I have one more observation to make and that is this. Recently, questions have been raised as to the filling up of vacancies of district panchayat officers by the Local Government. What happened

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was, the Local Government have taken the power to appoint persons as district panchayat officers and others. Now, so far as the health officers and engineers are concerned, they are provincial officers in the sense that a part of their salary is met by the Government and those persons therefore are selected by the Madras Services Commission and to that extent the Minister for the time being who is in charge of the portfolio has to select, or at any rate, has to recruit persons from out of the list prepared by the Services Commission. But, with regard to the power taken in regard to the appointment of electrical engineers and panchayat officers, a large number of these appointments vest in the Minister for the time being. In the recent selection of these panchayat officers, while all the payment come from the district boards, the selection comes from the hands of the Government. There was absolutely no consultation with the district boards concerned in the matter of the selection of persons, nor was there a guarantee that such appointments were approved by the Services Commission. If the Services Commission Act is defective, it is time enough not merely for the district boards but also for the Minister in charge when he exercises the patronage of appointing persons to local bodies, to see that such persons must have the stamp of some kind of efficiency—efficiency in the sense that applications were invited, that certain qualifications have been laid down and that qualified persons are selected and from that list alone such appointments are made. The recent appointments of panchayat officers has not given that impression. Questions have been asked whether applications were invited and the answer was that the Local Self-Government Department had already 500 applications which came by some door from whom they were selected. I think it will be unfair either for persons aspiring for such posts or even for the department concerned. There must be a proper channel and a separate body for such selection. If I support the motion, it is because the principle is already accepted and could not be gone back, that all communities should have proper representation in the services and consequently in these local bodies there should be proper safeguards in the matter of selection and recruitment and that the best persons should be selected irrespective of the influence they may have either in Government or in local bodies.”

* MR. V. P. NARAYANAN NAMBIYAR:—“ Mr. President, I rise to give my fullest support to the resolution before the House. The resolution but embodies a principle which this Council has already adopted, i.e., that without tampering the standards fixed for different appointments every community should have its due share in the appointments. When day in and day out hon. Members of this House urge upon the Government not to deviate from the principle laid down, it is but just and proper that the same principle is accepted by local bodies too. Otherwise it would be said that when it comes to us to act, we give the go-by to the principles which we so loudly profess. It is because the various communities have not had their right share in the appointments that even the political progress of our country is being hampered. I feel, and feel strongly too, that, in our Province at any rate, communalism

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will give way to nationalism only when the different communities have had their legitimate share in the appointments. Some communities, because of having taken to education at an earlier stage, are at present having a larger representation in the services. While that fact should not engender any feelings of bitterness or vindictiveness, the communities that have been so happily or, perhaps unhappily, placed should also realize that it is high time that, in the larger interests of the country, they stood by for some time. Sir, I give my fullest support to the resolution so that there might not be any misapprehensions about the attitude of Malabar."

* Diwan Bahadur A. APPADURAI PILLAI:—"Mr. President, Sir, I am glad I caught your eye. I wish to associate myself with the remarks that have been made by the previous speakers, Mr. Devadasan and Mr. Pannirselvam. The resolution as worded runs thus:

'This Council recommends to the Government to take early steps to enforce communal Government Order in the local bodies in this Presidency.'

"I may point out that there is no communal order or non-communal order of Government. It evidently means Government Order enforcing communal rotation in the matter of recruitment. This is a principle that has been already accepted with reference to public services. No doubt one should not aspire for appointments merely on the ground of communal principle; that is a ideal that ought to be aimed at in course of time. Unfortunately, in our country and in our Province it so happens that recruitment is based on communal grounds and for obvious reasons communal proportion is sought to be maintained. When that principle is accepted and acted upon with reference to public services, it stands to reason that it should also be made applicable to local board services. If it is not already done, I think it is a defect that has to be remedied, and the sooner it is remedied the better. The resolution only recommends to Government to take early steps to enforce communal rotation. It does not ask for, as represented by some, a preferential claim for a particular community. Nobody asks for a preferential treatment, only communal representation is asked for. What it asks for is, provided other things being equal—for example, if A and B come forward and their qualifications are equal—communal representation may be kept in view in deciding the selection. Nobody asks for any preferential treatment, be they Depressed Classes, be they Christians, Anglo-Indians, Muslims or Hindus. All that is asked for is that the principle of communal rotation that has been in vogue for some time and acted upon by the Services Commission, should be adhered to in the case of the local board services also. I am thankful to my hon. Friend, Diwan Bahadur Muniswami Nayudu, and also to my hon. Friend, Mr. Nambiyar, for their large-heartedness in having supported this resolution *in toto*. Surely, there might come later on a sort of recruitment board for the selection of hands for local bodies, but the question now is, is it or is it not desirable and expedient to introduce the principle of communal rotation in local bodies. The

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answer is undeniably in the affirmative. With these remarks I have very great pleasure, Sir, in supporting the resolution brought forward by my hon. Friend, Mr. Ahmed Meeran Sahib."

Diwan Bahadur C. S. RATNASABHAPATI MUDALIYAR:—"Mr. President, I have got a claim to speak on this resolution, because, I think, it is the municipality of Coimbatore over which I have the good fortune to preside that was the first to pass a resolution saying that in the matter of appointment to the staff—from peons upwards—the principle of communal representation as adumbrated by the Government in their various orders should be given effect to. To add to that, my Council even went further and stated that while giving effect to the principle of communal rotation, they must also give preference to people of the town in particular first and the people of the district next and then only, if qualified men are not available in the district itself, they should go in for candidates from other districts. I think, Sir, that such a sort of resolution is very wholesome and very helpful not only to the chairman but also to the councillors and even to the commissioners, for no motive can be attributed when making appointments. In the absence of such rules, the chairman and the commissioner will be in a bad predicament. There will be a number of people recommended for every appointment and if this principle is adopted, we can easily say that there is a resolution of the Council by which only appointments have to be made. By so doing, I do not think qualifications will be neglected. That is the reason why this resolution is moved to the effect that communal representation, as passed by the Government Order, should be applied to the local bodies also. I am not sure whether any Government Order was issued at all with regard to the competency of a municipal council or a local body passing a resolution for adopting the principle of communal representation. If I remember aright, a Government Order was received by the municipal councils and local boards to the effect that if promotions are made from the ranks of people getting lower scales of pay, such order was considered to be illegal. I think that was the purport of the Government Order. Government records also may be verified if necessary whether I am not correct. But, as long as there is no statutory prohibition with regard to the appointment of people on communal rotation principle, I do not think local bodies can be prohibited by any Government Order from adhering to that Government Order. As the provisions of the Act now stand, Councils have got power to appoint persons and in so appointing, they are quite at liberty to frame a rule to the effect that they could appoint persons only according to such a rotation. I do not think that any legal opinion can be held that the Council is not competent to give effect to the principle of communal representation. I am sorry that the opposition should have come from Mr. Palat of all people. There is already a charge that according to the communal principle, the non-Brahmans have not been benefited, but mostly the people of Malabar have been benefited by it. With due deference to the hon. Member I may say this, that if the opposition had come from anybody else. I think it would have been better."

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MR. SAMI VENKATACHALAM CHETTI:—" I shall be very brief. It is rather curious that our hon. Friend from Malabar should have taken any objection to the resolution moved by my Friend, Mr. Devadasan, on the ground that the communal Government Order ought not to be made applicable so far as the district boards and municipalities are concerned. Apart from that, so far as the principle involved in the resolution is concerned, I do not think anybody can take any possible objection. It has not only been accepted by the Government, but the settlement of that question has given a quietus to the undesirable agitation that has been going on in the country with regard to the manning of services. Therefore, it is wrong not to encourage the same principle so long as it is adopted by Government. But my difficulty in voting for the motion is this. It is not primarily the concern of the Local Government, to interfere in the right of appointment of local bodies. I do not think any district board president or any chairman of the municipality would like the interference of Government in the matter of appointing persons of different communities in derogation of the powers vested in him. It will be perfectly within the powers of the members of this Council to move their respective bodies for the purpose of laying down rules for the recruitment of persons in the manner they would like to have. I will rather object to the interference of the Local Government when they tell the local bodies that they should be guided by such and such a principle in the matter of appointment. It is not as if these communities have no proper means of representing their grievances in the representation of local bodies to make them come up to the local councils. There are communities other than the communities which are more than adequately represented in the local bodies, which have not sufficient voice or sufficient strength in order to induce the appointing authorities to appoint persons belonging to different communities so that adequate representation might be ensured. On that ground, I do not like to vote for the proposition now before the Council. If the local bodies make up their minds, it is easy to give effect to such a resolution in its own local area. But, in the case of Depressed Classes, there is a handicap unlike Christians and other communities. The number of members may be too small to induce other communities to agree with them. But I do not think the wording of the resolution contemplates exclusive appointment for these classes or any particular backward class. The resolution speaks only of communal Government Order which refers to all communities. Hon. Members may depend upon the support in the local bodies, and in this connexion I would rather hesitate to give an unqualified support to the Public Services Commission in the matter. I am afraid we are having rather too much of Public Services Commission. The history or the actions of that Public Services Commission will perhaps come up for discussion, Sir, early before the Council and then we may have to hear much about it. So that we cannot easily fall into the idea, however excellent it may be. We have been driven from pillar to post and from post to pillar, on account of the capricious act of Government. Government at one time say we have communal representation. At another time, they

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say 'why should we go in for advertisements for posts. Let the applications come from whatever door. We will select those whom we like.' It is such capricious acts taken in regard to public services in regard to prestige and patronage which the Government are unable to use properly. I, therefore, Sir with this reservation would like to say that, while I approve the principle involved, I cannot give my vote in support of it on the ground that it is not a matter of primary concern of the Local Government."

* Mr. C. BASU DEV:—"It is gratifying to note the almost unanimous approval of this Council of the principle of communal representation. If I now stand, it is not to lend further support to it. But, Sir, I would like to express the fears of the backward communities, who are classed with the advanced, influential, non-Brahman communities described by the compendious term 'non-Brahman.' I am very thankful to Diwan Bahadur B. Muniswami Nayudu Garu for having raised this question and told the House that in the matter of communal representation in the services of local bodies, they will have not only to adjust representation between Brahman and non-Brahman but also to adjust the claims of non-Brahmans *inter se*. I think that is the substance of what he said. Sir, the idea of communal representation was hailed with joy by several of those unfortunate communities which at that time did not find proper and adequate representation. Among those communities were the backward Hindu communities also who expected that the destruction of the monopoly of a certain section of the population would result in the proper justice done to their communities as well. But, unfortunately, their hopes have not been fulfilled even to a modest extent. The monopolists of fifteen years ago were sent out and another set of monopolists came into existence and are now dominating the whole of the services. Only the other day, certain members of the backward Hindu communities had the privilege of waiting on the hon. Sir Archibald Campbell to press before him the need for revising the communal Government Order and provide for their special consideration. My object in standing before this House is to impress upon the Government the necessity for giving special consideration for the backward Hindu communities. Sir, Mr. Sami Venkatachalam Chetti in his speech has just now told us that he is not able to give this resolution his unqualified support because he thought that it would be interfering with the prestige and patronage, that is now left with the authorities of the local body. I hope, that the local bodies would be better managed if the Government takes upon itself the responsibility of giving the right lead in the matter. I think it would be impossible to apply communal representation to individual local boards unless a provincial cadre is constituted. I therefore urge on the Government in supporting this resolution the need for creating a provincial service for local bodies and municipal employees. With these words, Sir, I support the resolution."

* The hon. the RAJA OF BOBBILI:—"Sir, I have heard the speeches made on this resolution on the last occasion as well as to-day. I find from the opinion expressed on all sides there is very little for me to say

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[Raja of Bobbili]

on the matter. It is needless for me to say that it is a principle which has been already accepted by Government and being followed in the case of Government services. As far as Government are concerned, they have every sympathy with the objects underlying this resolution. At the same time, I have to point out that, in applying these rules to local bodies, the matter will not be so simple as in the case of Government service. There are different local bodies and different qualifications, and in some cases no qualifications are fixed. There are different scales of pay for different posts. The difficulty will be to determine which should be the unit and whether it should be a district board or municipal council or each local body, and whether it is necessary to make the panchayats also as the unit in which case, the whole province will have to be divided into three or four circles and then the communal Government Order may be applied. I do not mean to say that these difficulties are insurmountable. But, I wish to state that, before accepting the resolution, Government will have to consider the matter to find in what form and manner it will be possible to apply this to local bodies. In this connexion, Sir, I have heard the speeches made, I believe, on the last occasion, and one of them was by Mr. Sreshta who said that a separate communal rotation should be fixed for each district. Some Members have urged that it is desirable to fix separate quotas for certain municipalities and areas. I am afraid it will be going too far when we seek to fix these ratios for each particular locality and proceed on the basis of population."

* Mr. M. S. SRESHTA:—"On a point of personal explanation, Sir. What I wanted to say was if the resolution stood as it did and the Government order was observed, it will be inelastic. Therefore, the principle of communal Government Order should be applied to all bodies. If the hon. Member reads my speech, he will notice that I have stressed that the rule must be elastic as the conditions in each district varied. The communal Government Order was not elastic and I wanted it to be more elastic."

* The hon. the RAJA OF BOBBILI:—"Sir, I am not very much enlightened by the explanation given by the hon. Member. I may here read out an extract from the hon. Member's speech: 3.45 p.m.

'I am moving this amendment for the purpose of making it more clear that if a proper ratio is observed in all local bodies in the matter of communal representation, there will be no difficulty. As it is, however, it is not found to be adequate in the case of certain local bodies. For instance, in Kurnool the Muslims who form 50 per cent of the population have been given the usual 33 per cent representation. It would be inadequate for them.'

"From this I understood that the hon. Member meant that there should be separate ratios fixed for particular areas. As regards the question raised by my hon. Friend, Mr. Pannirselvam, I am afraid he has not made matters clear by the explanation. Recently one or two cases occurred in which the local bodies attempted to apply the communal rotation and there were some differences. Government were then consulted in the matter. It was the duty of the Government to explain the present legal position. The Government have no objection to the application of the communal Government Order. As I said before,

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Government are advised that, as under the District Municipalities Act, certain authorities are fixed for making the appointments—in certain cases the councils themselves and in certain other cases the commissioners—it would be contrary to the Act for the Government to frame rules restricting the power of appointment of those concerned. Government are therefore advised that, if they desired to give effect to this principle, a suitable amending Act is necessary. That is why we have given that opinion to the local bodies concerned. We do not object to the application of the communal Government Order at all.”

Mr. SAMI VENKATACHALAM CHETTI:—“ May I know if the prescription of qualifications amongst which is included the adequate representation of certain communities will be considered illegal? ”

* The hon. the RAJA OF BOBBILI:—“ That is the opinion given by the legal advisers of Government.

“ As regards the other points raised, there are two possible ways of giving effect to this resolution. One is by suitably amending the rules to enable Government to take power to frame rules to apply the communal Government Order to all local bodies in this Presidency and the other is to amend the Local Boards Act and the District Municipalities Act giving power to each local body to frame its own rules. Of course the object of pointing out these alternatives is to show that these points will be considered by the Government and to assure the House that the Government will give effect to the considered opinion of this House in the manner which they think most suitable.

“ Before I resume my seat I desire to say a few words about the remarks of my hon. Friend, Mr. Muniswami Nayudu, on the question of the recent recruitment of panchayat officers. As I have already informed the House at question time on more than one occasion, the public Services Commission is constituted only to deal with provincial and subordinate services. In the absence of any other suitable body available for making the selections, Government felt that the Inspector of Municipal Councils and Local Boards was the most competent authority for the purpose and so the selection was placed in his hands.

“ The hon. Member's other suggestion was about constituting a special body for recruitment of the staff for the local bodies. I am not sure whether public opinion in this Province will favour such a proposal. Government do not propose to act in advance of public opinion in the matter. Of course, if local bodies and the public are desirous that such a proposal should be given effect to, then the Government will consider the matter. With these words I accept the motion.”

Mr. BASHEER AHMED SAYEED:—“ May I ask, Sir, whether in the appointment of panchayat officers, sufficient justice was done to the Muslim community by the hon. Minister? ”

The amendment to substitute the word ‘ immediate ’ for the word ‘ early ’ was then put and carried.

The amendment to insert the words ‘ the principle underlying ’ after the word ‘ enforce ’ was put and carried.

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The resolution, as amended, was then put and carried.

Mr. V. T. ARASU:—"Sir, I move—"

'that the consideration of all the items in agenda do stand over until item 9 is disposed of.'

Mr. BASHEER AHMED SAYEED:—"I second it."

Mr. M. S. SRESHTA:—"I oppose the motion, Sir."

Mr. ABDUL HAMEED KHAN:—"I am afraid this is a motion which has been conceived in haste."

Mr. V. T. ARASU:—"I believe under the Standing Orders no discussion is permitted on such a motion."

* The hon. the PRESIDENT:—"I thought the hon. Member was going to explain something. I shall now put the motion to vote of the House. The question is that the consideration of the other items be held over until item 9 is disposed of."

The motion was declared lost.

Mr. V. T. ARASU demanded a poll and the House divided thus:

Ayes.

1 Mr. V. M. Ramaswami Mudaliyar.	18 Mr. K. S. Sivasubrahmanya Ayyar.
2 " T. Narasa Reddi.	19 " P. Peddi Raju.
3 Rao Sahib V. I. Muniswami Pillai.	20 " Ahmed Miran.
4 Rao Bahadur R. Srinivasan.	21 Diwan Bahadur B. Muniswami
5 Swami A. S. Sahajanandam.	Nayudu.
6 Mr. Yakub Hasan.	22 Mr. K. P. Raman Menon.
7 " K. R. Venkataarama Ayyar.	23 Diwan Bahadur C. S. Ratnasabha-
8 " Sami Venkatachalam Chetti.	pati Mudaliyar.
9 " A. Pl. N. V. Nadimuthu Pillai.	24 Mr. P. V. Krishnayya Choudari.
10 " V. T. Arasu.	25 Zamindar of Chemudu.
11 " A. B. Shetty.	26 Mr. C. Indrayya.
12 B. Pocker Sahib Bahadur.	27 " J. Kuppuswami.
13 Mr. M. A. Manikkavelu Nayakar.	28 " Mahboob Ali Baig.
14 " Abdul Hameed Khan.	29 " G. R. Premayya.
15 " Basheer Ahmed Sayeed.	30 " K. Pattabhiramayya.
16 " U. C. Subrahmanya Bhatt.	31 Rao Bahadur R. K. Venugopal
17 " K. A. Nachiappa Gounder.	Nayudu.

Noes.

1 The hon. Sir Mahomed Usman.	14 Mr. R. Madanagopal Nayudu.
2 " Diwan Bahadur Sir	15 " E. Conran Smith.
M. Krishnan Nayar.	16 " T. Sundara Rao Nayudu.
3 " Sir Archibald Campbell.	17 Khan Sahib Syed Taj-ud-din Sahib
4 " Sir Hopetoun Stokes.	Bahadur.
5 " Diwan Bahadur S. Kuma-	18 Rao Bahadur A. T. Pannirselvam.
raswami Reddiyar.	19 Khan Bahadur Yahya Ali Sahib
6 " Mr. P. T. Rajan.	Bahadur.
7 " the Raja of Bobbili.	20 Mr. M. Devadasan.
8 Mr. G. Jagannatha Raju.	21 Rao Sahib N. Siva Raj.
9 Mrs. K. Alamelumangathayaramma.	22 Subadar-Major S. A. Nanjappa
10 Diwan Bahadur V. N. Viswanatha	Bahadur.
Rao.	23 Mr. B. P. Sesha Reddi.
11 Mr. J. A. Thorne.	24 " P. V. Rajagopal Pillai.
12 " H. M. Hood.	25 " V. G. Vasudeva Pillai.
13 Diwan Bahadur N. Gopalaswami	26 " P. Bayappa Reddi.
Ayyangar.	27 " P. K. Ramachandra Padayachi.
	28 " G. Lakshmana Reddi.

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Noes—cont.

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| 29 Rao Sahib V. Dharmalingam Pillai. | 42 Rao Bahadur Sir A. P. Patro. |
| 30 Zamindar of Mirzapuram. | 43 " C. Natesa Mudaliyar. |
| 31 Mr. A. V. Bhanoji Rao. | 44 Diwan Bahadur S. Ellappa Chet- |
| 32 Mr. Daniel Thomas. | tiyar. |
| 33 " H. M. Jagannatham. | 45 Mr. C. Basu Dev. |
| 34 Rao Bahadur D. Krishnamurti. | 46 " R. M. Palat. |
| 35 Zamindar of Kirlampudi. | 47 " W. K. M. Langley. |
| 36 Diwan Bahadur A. Appadurai Pillai. | 48 " R. Foulkes. |
| 37 Rao Sahib D. V. Narasimhaswami. | 49 " G. Simbachalam Pantulu. |
| 38 Mr. A. Harischandrudu Nayudu. | 50 " K. C. M. Venkatachela Reddi- |
| 39 " K. Kesavaramamurti Nayudu. | yar. |
| 40 " A. Ramakrishna Reddi. | 51 " G. Sriramulu. |
| 41 " M. S. Sreshta. | |

Neutral.

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| 1 Khan Bahadur Schamnad Sahib Bahadur. | 2 Mr. V. P. Narayanan Nambiyar. |
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Ayes 31. Noes 51. Neutral 2.

The motion was lost.

Mr. A. M. AHMED MIRAN:—" Mr. President, I do not propose to move the resolution ^a (No. 1 on the agenda) standing in my name."

^a *Preferential treatment for Viswabrahmans in respect of certain concessions.*

A. M. AHMED MEERAN SAHIB Bahadur:—

1 (375) This Council recommends to the Government that the Viswabrahmans of this Presidency should be given preferential treatment, without including the name of their community either in the list of depressed classes or in the list of scheduled castes—

- (i) in respect of direct recruitment to appointments in public services;
- (ii) in respect of age-limit enabling them (a) to appear for the Services Commission examinations till the age of 28 years; and (b) to join public service till the age of 30 years;
- (iii) in respect of educational facilities such as the award of scholarships for technical studies through the Industrial department;
- (iv) in respect of grant of waste lands and house-sites on ordinary darkhast rules; and
- (v) in respect of the extension to this community also of the ameliorative work now being carried on by the Labour department, funds being provided separately, immediately after the finances of the Government improve, till such time as there is perceptible progress in the status of the community; and

that this resolution should be given effect to only in the case of those members of the said community as would express their desire in writing therefor.

Amendment.

Rao Sahib P. SUBRAHMANYAM CHETTI:—

In lines 3 and 4, for the words "without including the name of their community either in the list of depressed classes or in the list of scheduled castes" substitute the words "along with the Vahnikula Kshatriyas, Setti Balijas, Chakalis, Devangis, Nadars, Nambudri Brahmans and other independent communities in the backward communities list of the Hindu fold which deserve such independent treatment, the same privileges as they were pleased to bestow on the so-called depressed classes."

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EXEMPTION OF MUSLIM GIRLS FROM PAYMENT OF FEES IN SECONDARY
ARTS AND TECHNICAL INSTITUTIONS.

Mr. ABDUL HAMEED KHAN:—"Mr. President, I have great pleasure in moving the motion standing in my name, namely—

'this Council recommends to the Government that Muslim girls may be granted exemption from payment of fees in all the secondary, arts and technical institutions in this Presidency until such time as Government would think that the problem of Muslim education is reasonably solved.'

"Sir, this resolution has been worded very carefully. The demand made in it is that, wherever Muslim girls are seeking education, particularly in colleges, secondary schools and technical institutions, they may be exempted from paying fees. Sir, it is a well-known fact that in the matter of education of the women of this country, they are very backward. If we want to encourage education among them, we should afford them facilities of all kinds so as to attract them to these institutions. From the figures that are given in the Government Report of the Director of Public Instruction you will find that the number of Muslim girls in colleges is very limited. There are not more than two or three in the arts colleges, and even in the secondary schools the number is very limited. The progress of education among Muslim women is very slow. I am not asking the hon. Minister to see that this concession should be meted out even in the case of girls whose parents can afford to pay the school fees. I am not requesting Government to take upon themselves the responsibility of making education free even for those people, whose parents can well afford to spend money on their education. But experience has taught us that the Government Orders in this respect have been so vague and indefinite that the authorities who give effect to these orders manipulate and interpret them in such a way that they defeat the very purpose for which they have been framed. They misinterpret and misuse these orders, because they are unwilling, or rather they do not want the Muslim children should get any scholarship at all. It is because of this fact that I have made this resolution general. If Government can assure us that the Government Orders will be such as will prevent any misuse and that every deserving person will get the concession that is sought for, I have absolutely no objection to any situation, where Government may not exempt persons who can afford to pay their children's school fees. In the matter of secondary education, we know, Sir, that it is on account of poverty that the Muslims in the various districts do not send their children to schools.

"Then the other difficulty is *purdah*. Of course, it is no doubt true, that some of my friends may come forward and say, 'why confine this concession to one community alone?' To this I have to say this: there are cases of grown up Muslim girls, who attend schools where *purdah* is compulsory. But since their number is small, Government will not find it possible to make arrangements for their convenience. Thus to make up for this double handicap of poverty to pay school-fees and conveyance charges, I am only trying to meet them half-way by this

4 p.m.

[Mr. Abdul Hameed Khan] [1st February 1934]

resolution. And it is only in such cases that I am asking for this concession. Hence I hope the hon. Minister will give his best consideration to this resolution and grant what is sought in this resolution.

“ I am glad the hon. Finance Member is luckily present on this occasion, and I appeal to him to co-operate with the hon. Minister in acceding to our request, because both the hon. Members are aware of the fact that if there is any community which is backward in education and thus retards the progress of the whole Indian Nation it is our community. Therefore it is necessary that the facilities asked for in this resolution should be granted at least for some time to come, at least till our community comes into line with the advanced ones. So, since I am asking for this concession for a short time, I hope and trust that Government will have no hesitation in giving it. In this I am sure I have the fullest support of hon. Members of this House; and so I have great pleasure in moving this resolution.”

Mr. BASHEER AHMED SAYEED:—“ Mr. President, Sir, in seconding this resolution I wish only to touch upon those aspects of the case which have not been traversed by my hon. Friend, the Mover. I submit, Sir, at the outset, that the acceptance of this resolution by Government will not involve them into any great financial commitment. The reports of the Director of Public Instruction point out that the increase under the last quinquennium in the percentage of Muslim school-going girls has been only from 4.5 to 5.1. This is the percentage that now obtains with regard to our community in the whole Presidency. And hon. Members will readily admit when I say that from 4.5 to 5.1 it is not a very great increase from the educational point of view. Sir, we are very grateful to the hon. Minister for having instituted a committee of inquiry into the condition of education in general and to propose measures as to how best to improve that. That committee submitted its report, and it is now nearly two years since it completed its labour, and so far Government have not been able to give effect to several of the important recommendations made by it, except perhaps one or two. Of course, one of the most important recommendations of the committee has been given effect to. That was very very vital to the Muslim community, and it had been insisting for it almost from time immemorial. Now, Sir, that recommendation of the committee accepted by the Government could, by now, have been given practical shape, but so far, no steps appear to have been taken in that direction. And that is a question which, I hope, Government will take seriously into consideration and give what they have already tacitly admitted in a practical, material and substantial manner.

“ Now, Sir, coming to the education of Muslim girls, the committee recommended them exemption of fees, and even went so far as to say that they should be given every facility in the matter of conveyance and free education. The concession of conveyance has been brought to the notice of Government on the floor of this House more than once, and I urge upon the Government to make a move in this matter at

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least as an experimental measure. And now when the whole Muslim community is fighting for the expansion of education of their children, I am sorry that at this critical juncture came forth the Champion Report quite inopportunistly. Government have passed orders on that report and given a free hand to the district educational authorities in implementing those recommendations."

Diwan Bahadur C. S. RATNASABHAPATI MUDALIYAR:—"On a point of order, Sir, the resolution before the House refers only to school fees, but the hon. Member is expatiating on all aspects of Muslim education."

Mr. BASHEER AHMED SAYEED:—"I never thought my hon. Friend would be so hasty as to rise to a point of order."

* The hon. the PRESIDENT:—"Order, order, the hon. Member will at least now confine his remarks to the resolution before the House."

Mr. BASHEER AHMED SAYEED:—"I submit, Sir, my remarks have been quite pertinent to the matter under discussion. I am sorry my friend does not see how the whole question of Muslim education is inter-related with this resolution. Now, Sir, the question of concession involves other items as well. The one handicap in the progress of Muslim education is the financial poverty of the community, and that financial poverty involves a number of things. I wish my friend had waited patiently till I reached the point which interests him. The only way by which this poverty can be combated is by providing Muslim girls with free conveyance and exemption of fees. Unless these two things are done, the backward community cannot hope to rise. As I said, the percentage of increase in school-going Muslim population has been nothing beyond .6. If my friend, the ex-District Board President of Coimbatore, helps his sister and brother community people, in whose midst he is living, whose support he seeks time and again and whose friend he claims to be, he can show a better percentage of increase in the Muslim school-going population than that from 4.5 to 5.1. Let him satisfy himself whether this is justice done to the Muslim community. He knows well that the case of this community goes by default in almost every municipality. It is only of late this community has taken to education, and so it is but fair and just that it is given every facility to rise to the level of other communities.

"In this connexion I want to bring to the notice of Government how rule 12 of the Education Rules has worked hardship on the Muslim community instead of good. That rule has been most mischievously in operation against my community; the concession meted out by that rule has not been availed of by the really deserving poor; in fact, in some cases, it was availed of by some indeed rich people. It has been in force for some years, and it has done much harm than good, and I urge upon Government to see that that rule is enforced fairly and justly.

"After all, Sir, the concession asked for in this resolution is only with regard to a few really deserving poor Muslim girls, and as such,

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the financial commitment will be next to nothing; I will even say, it will be negligible. I therefore urge upon my Hindu brethren to support this motion and see that Muslim education thrives. I submit, with their advancement is connected the national welfare of the country, and so I appeal to my non-Muslim friends and to Government to give a helping hand to the education of the Muslim community, and particularly to that of the females of that community.

“Sir, I have great pleasure in seconding this resolution.”

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* The hon. the PRESIDENT:—“The motion before the House is that ‘This Council recommends to the Government that Muslim girls may be granted exemption from payment of fees in all the secondary, arts and technical institutions in this Presidency until such time as Government would think that the problem of Muslim education is reasonably solved’.”

* Mr. R. M. PALAT:—“Several speakers have spoken about the backwardness of the Muslim community. All the arguments advanced apply equally to various other communities of this Presidency. I believe Muslim religion advocates education among Muslim women quite as much as any other religion does. There is nothing in the religion which stands against Muslim women being educated. All the arguments cited apply with equal force to other backward communities. The emphasis should not be laid on religion but on backwardness.

“The next point that I want to say is that we do not want to give any concessions to persons who are rich even among Muslims. The reason why scholarship is given is to encourage poor persons to study. For instance, we do not want to give scholarships to Muslim girls who are daughters of Muslim merchant princes such as Mr. Ispahani. I do not think it is fair or necessary that Government should come forward with scholarships in their cases.

“Another thing I want to make clear is that in my resolution backward classes include the depressed classes. I want to extend the scope of this resolution so as to see that such communities as are backward and are poor are given scholarships. I do not know whether the Government are going to accept this resolution. But if they are going to accept this they will have to provide funds, because as the hon. the Chief Minister said almost all the local boards are on the verge of bankruptcy and they are not in a position to allot any funds for education. Therefore, if Government accept this and come forward with a subsidy the people will only be too glad to extend free education. I therefore move my amendment which runs as follows:—

‘In line 2 before the word “Muslim” insert the word “poor” and between the words “girls” and “may” insert the words “and poor girls belonging to the backward classes.”’

‘In line 4 for the word “Muslim” substitute the word “their”.’

Mr. R. MADANAGOPAL NAYUDU:—“I second it.”

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* Rao Sahib V. I. MUNISWAMI PILLAI:—"Sir, I too have given notice of an amendment which runs as follows:—

'Insert the words "and depressed classes" after the word "Muslim" in line 2, and delete the word "Muslim" in line 4 of the resolution inserting "their" in its place.'

"Mr. President, as things stand at present, the education of a community marks the progress of that community and my hon. Friend, Mr. Abdul Hameed Khan, has clearly stated all the facilities that are required to make Muslim women progress in education and it is my humble duty to bring to the notice of the Government that the facilities now afforded to the women of the depressed classes are not enough to induce them to take up to higher education. Reading through the quinquennial report that has been submitted by the Director of Public Instruction I find that out of a total population of 3,792,450 of the depressed classes women of school-going age, those who actually attend schools are only 66,394. Of these those belonging to primary school are 75,290, middle school 1,070 and high school 34 and in the college course none. The women population of school-going age among Muhammadans is 1,674,221, of whom there are about 80,193 Muslim girls who attend schools. Of these those belonging to primary school are 79,833, middle school 319 and high school 30 and University and other institutions 11. That clearly shows that the depressed classes are far backward than the Muhammadans as far as education in high school and University classes is concerned. Sir, high school course is preparation ground for admission to the University course and unless some facilities are given to women that are reading in high school classes, it will not be possible to get any of them into the college course. Sir, going through the financial side, I find that Government are spending Rs. 17,92,842 from public funds for the education of men and women among Adi-Dravidas. By the term 'Adi-Dravidas' I mean, that it not only includes depressed classes, but also people belonging to several other communities such as Khonds, Koravas and several other communities. Taking Muslim education, the public fund spent by the Government on it comes to Rs. 20,73,512 though their population is far below that of the depressed classes. I think it will be seen therefore that our demand is just. Again, going through the report I find that in 1927-28 the depressed class girls who were studying in schools were 5,914, in 1928-29 7,904, 1929-30 9,268, 1930-31 10,746 and in 1931-32 8,645. Taking 1930-31 and 1931-32 figures, they clearly show that facilities are not enough to induce our girls to take to education. Taking this report into account again, I find there have been separate schools started for Muhammadan education which cater well to the needs and facilities of Muhammadan women. The facilities afforded to Muhammadans are far more than those afforded to backward communities. I may read for the information of the House the following paragraph from the report:—

'It is interesting to notice that while the percentage of scholars to population in respect of girls increased from 4.5 to 5.1 during the quinquennium under report, the percentage of boys decreased from 15.3 to 14.3. Since the increase

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in population in respect of both men and women was almost equal the explanation for the increase in the percentage of girl pupils to the population and the decrease in that of boys is to be accounted for by the fact that there was proportionally a larger increase in the strength of girl pupils than in that of boys during the quinquennium. This is clear from the fact that the percentage of increase in the number of female scholars was 33 per cent and in that male scholars was 9 per cent.'

"This clearly shows that there has been an increase. Taking into account the percentage of depressed classes boys and girls I find there is an increase of .35. So, I would request that the Government will be pleased to consider this point and do something in the way of giving facilities to the depressed classes.

"Sir, unfortunately due to the abolition of labour schools after the retrenchment of 1932-32 facilities that were given to the depressed classes are lessening. Of course it may not be out of place if I begin to say that at a time when the Champion report is being rejected by the depressed classes and Muhammadans it is being enforced on such communities which do not welcome it, and so I think the Government must come to our rescue and do something to expand the education among the depressed classes."

Rao Bahadur R. SRINIVASAN:—"I second it."

* The hon. the PRESIDENT:—"The question is that the words 'and depressed classes' be inserted after the word 'Muslim' in line 2 and the word 'Muslim' in line 4 of the resolution be deleted."

Mrs. K. ALAMELUMANGATHAYARAMMA spoke in Tamil and the following is the English rendering of the same:—

"Mr. President, Sir, Mr. Hameed Khan has pleaded on behalf of Muslim girls for a larger expenditure by Government for their education. It is a matter for gratification that education is spreading in the Muslim community not only among boys but also among girls. Though they observe Gosha, parents send their daughters to school even from distances of one or two miles. I have seen Muslim girls leave their houses as early as 7 o'clock in the morning and return home from school at 5 or 6 o'clock in the evening. Many of them belong to poor families. Their parents are very anxious to educate them. But they have not enough money to spend on the education of their daughters. It is necessary to give assistance in such cases. It is wrong to suppose that there is no desire among Muslims for education. They too yearn for knowledge and education like other civilized communities. This is as it should be. They know that the Government is doing something to further the cause of education among them. Their desire, however, is that Government should do more than what is doing at present which is not sufficient. It is my opinion that even as Government is earmarking sums of money for various other purposes, they should set apart a larger amount than they do at present for education. It is highly desirable that children of poor families should be helped by Government. It is true, as Mr. Palat has observed, that there are many wealthy merchants among Muslims. It should, however, be acknowledged that some of them are doing their duty in this

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respect. But the matter should be left entirely to their benefactions. The Government also should do more than they are doing at present to help these poor children. I heartily support the resolution brought forward by Mr. Hameed Khan."

Mr. SAMI VENKATACHALAM CHETTI:—" Mr. President, Sir, I desire to place before the House some difficulties which managers of institutions and local bodies will have to encounter if this resolution is passed in this present form without the Government promising any support to those institutions. Probably it will be easy for the Government to accept this resolution for the simple reason that responsibility will be thrown on others' shoulders. So far as elementary education is concerned, what is now being done by the Government is to allot a certain amount of money to schools existing in a particular area and expect the District Educational Council of that area to distribute the amount among the schools in that area. So that whatever may be the number of schools that may be started from time to time in that area, whatever may be the amounts of grants to which those schools may be entitled on account of the progress shown by them, the District Educational Council is entirely powerless to ask the Government for more and has only to distribute the amount at its disposal among the various schools claiming grants. The result is that many institutions which should be shown concessions are denied those concessions. The same is the case with regard to secondary and collegiate education. The concessions given to backward class pupils are not taken into account in calculating the grants to which the schools are eligible; at least the half-fee concessions are not taken into account. Though it is stated that the department takes these concessions into account in practice, we can easily convince any dispassionate person who wants to examine this question that such backward class concessions are not at all taken into account. If this resolution is carried and if full concessions are to be given to Muhammadan and backward class pupils, it will mean that the finances of the managements of these institutions will be curtailed by the amount of the concessions granted by them and the amount available for higher education will be reduced. If the Government are in a position to assure the House that they will increase the allotment in the education budget by the amount that will be required to meet the demands arising from the passing of this resolution, it will be very good. As has been observed by several hon. Members education has not progressed sufficiently among several communities and the only panacea for all the ills from which our country is suffering is education. I am very sorry to observe that the hon. Minister for Education has, whether knowingly or unknowingly, led himself into a situation in which his department is perhaps the most starved of all the departments of Government at present. By one device or another, as I stated in connexion with another matter, a lot of money is taken away from the Education Budget. The hon. Minister must be aware of the controversy over the question of the Champion report which recommends the centralization of several schools. I am afraid that in this matter the department is having its own way. I read in the news-

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papers that in a particular taluk some schools have been abolished in order to give effect to the recommendations of the Champion report. That will mean that schools will become less and less accessible to poor boys and girls and as a consequence they will be denied education. I would therefore suggest to the hon. Mover of this resolution and the hon. Mover of the amendment to word the resolution in such a way as to make it clear that the whole burden of giving effect to it will fall on the Government and not on the managements of these institutions. I would suggest that if the management of a school receive a certificate from the department authorizing them to admit a certain pupil of the backward class on full fee concession, they must admit that pupil but they should be allowed to cash such authorizations at the counter of the department."

MAHBOOB ALI BAIG SAHIB Bahadur:—"Mr. President, Sir, I am sorry to remark that the criticism of the resolution by the hon. Member is rather unhealthy. I can understand him if he moves an amendment to the resolutions, but I cannot understand the criticism he has chosen to make of the resolution. He has said that no concession should be shown to any community or he would like such concessions to be governed by the amendment he has moved. The inconsistent position he has taken up shows that his criticism is not of a healthy nature. That is not the spirit in which we should approach the question. Talking about giving concessions to this community or that community, he could have advocated the cause of the particular community he is interested in, but I submit that the attitude he has taken on this question and the criticism he made of the resolution are quite unsatisfactory. This is the second time to-day when he has come in for a criticism of this kind.

"Now, Sir, the amendment wants that only poor girls of the Muslim and other communities should be given fee concessions. No doubt to all appearance it seems to be a reasonable one, but there is already rule 92 of the Educational Rules dealing with this matter and it has not been given effect to at all in spite of the fact that the attention of the Government has been drawn to it on the floor of this House on many occasions by several hon. Members. What we want to achieve by this resolution is to ensure that fee concessions for poor girls do not share the same fate as that of the concessions under rule 92 to which I have just now referred. I have no objection whatever to girls of other communities also being given the concessions asked for in this resolution. But under the cloak of the word 'poor,' girls whether they are proved to be rich or poor are not given the concessions to which they are eligible under rule 92. It is however within the knowledge of many persons that rich persons who are influential get these concessions. It is not often the deserving poor that get these concessions. What I want to see is that the fate of Muslim girls who may get these concessions under the amendment now proposed should not be the same as that of the boys eligible for concessions under rule 92. I do not see why there should be any objection to that course.

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The hon. Member, Mr. R. M. Palat, who is keenly interested in educational matters should have known how rule 92 is worked in practice. If he looks into the records of the schools under his management, he will see how the rule is applied. The rule says that unless the management is doubtful about the poverty of the parents of the students, straightaway half-fee concession should be given. That was the interpretation put by the Government also after the resolution was passed in this Council. Under the circumstances, I request the Government to see that girls of Muslim and backward communities are given fee concessions in order that communities which are backward in education may progress in elementary education. Can there be any possible objection to this resolution at all? I must also say, Sir, as my friend Mr. Basheer Ahmed has pointed out, that so many obstacles are placed in our path just at a time when we are trying to improve our education. It may be for the general good of the country that amalgamations should take place, but I wish to point out that just at a time when we are beginning to progress, these obstacles are placed in our path. It may be that statistics may show an improvement in education among Muslim girls here and there, but whatever improvement there has been, it has been only in primary education, because the little girls are sent to schools so that they might not tease their parents. But what sort of education do they receive there in such schools? They do not learn even the three R's there. They continue in the schools up to the age of seven or eight and then they become goshas and do not attend schools. If the statistics show any rise in female education among Muslims, it is only the numbers in the primary schools that go to make up the increase. What is sought by this resolution is to ask the Government to give encouragement to girls reading in secondary schools and colleges. The Government have already taken some steps by passing rule 92 and there is nothing extraordinary in asking the Government that certain backward communities should be given some encouragement in the matter of fee concessions so that education may progress among them. It is not merely on the ground that poor students should be helped but it is also with the view to encourage education among women of a particular community which is really backward. It is needless for me to say that unless women are educated, there will be no progress whatever in any community. I have therefore great pleasure in supporting the resolution of my friend, Mr. Hameed Khan."

Mr. M. G. PATNAIK Mahasayo:—" Mr. President, Sir, this resolution as it is worded is moved with a view to force the Government to grant certain concessions to all Muhammadan girls irrespective of the fact whether their parents are rich or poor. Rule 92 clearly says that not only Muslim girls, but girls of other backward communities reading in Form III and lower classes are eligible for full fee concession, if it is shown that their guardian or parents are poor. Girls are entitled to half-fee concessions for higher classes. The rule says fee concessions shall be given. The Grant-in-Aid Code also

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provides that the loss incurred by the institution should be made good by the Government. But what the Government do is they do not in practice make good the loss, though the rule is there. They do not give any compensation at all either to schools under private management or to schools under public management. The rule has been practically repealed by the Government. Rule 92 is really a dead letter. Certain suggestions were made on the last occasion. It was suggested that rules might be framed making it compulsory that District Educational Officers should go and examine the accounts and registers of the schools and see whether these concessions are properly granted or not. That is not done. Therefore it depends entirely on the sweet will and pleasure of managers of private schools, of chairmen of municipal councils and of presidents of local boards to grant the fee concessions or not. They do not grant any concession at all. It is open to them to give these concessions. What they do is, they say that these girls do not come from poor families. As my hon. Friend, Mr. Mahboob Ali Baig, said, if an official, or a president of a local board or a chairman of a municipality says that a girl is poor, she deserves concession. The whole trouble arises from the fact that the Government have not passed any rules making it compulsory to grant concessions. If it is made compulsory, the Government will have to make good the loss incurred by the schools. Only to save money, the Government have not done that. I think the Government would do well to cancel rule 92 and the provision in the Grant-in-Aid Code. Why should the Government say that they have framed the necessary rules and that the local bodies are expected to give effect to them? Practically you are denying the concessions. The Government throw the blame on the local bodies; they should take it upon themselves. As it is, rule 92 will be quite sufficient and this resolution is not necessary. But what the Government have to do is to make good the loss incurred by the schools."

Diwan Bahadur C. S. RATNASABHAPATI MUDALIYAR:—"Sir, I support the amendment of Mr. Muniswami Pillai and the original proposition of Mr. Abdul Hameed Khan. Mr. Mahboob Ali Baig said that Mr. Muniswami Pillai supported the case of his own community as against that of the Muhammadan community. If concessions are applied on behalf of certain communities, and are given, it is at the expense of the general taxpayer. When at the expense of the general taxpayer, concessions are given I am of opinion that such concessions should be given to the largest number possible. The girls of both the Muhammadan community and the depressed classes deserve the attention of the Government. While the Muhammadan community wants that their purdah girls should be given facilities by way of conveyance, I think that the girls of the depressed classes should be given facilities by way of midday meals. If only the Government have the necessary funds, I will gladly support the resolution to its fullest extent. I am glad that Mr. Patnaik brought to the notice of the Council how rule 92 is given effect to. Even though that rule might be observed by Government schools and schools under local boards, it is not at all

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observed by private schools. As chairman of a municipal council I am empowered to grant poverty certificates. When I give such certificates and when they are produced, the managers of private schools cannot refuse the concessions; to get over the difficulty they say that there is no accommodation for such pupils and refuse admission. Thus they get over rule 92. With these words I support the amendment and the resolution."

Swami A. S. SAHAJANANDAM spoke in Tamil.

* The hon. Diwan Bahadur S. KUMARASWAMI REDDIYAR:—"Mr. President, Sir, I need hardly assure hon. Members that any attempts to secure concessions with a view to facilitate the spread of education amongst girls will receive my sympathy. The resolution moved by the hon. Member, Mr. Hameed Khan, though worded somewhat generally, was explained by him with his characteristic fairness as not meaning that the concessions that he asks for should be granted indiscriminately to all pupils whatever the status of their parents may be. The daughter of a High Court Judge, or of a District Judge or of a Member of the Executive Council certainly does not require the pittance of a fee concession to enable her to study in any educational institution. Only in the case of pupils whose parents cannot afford to bear the cost of educating their daughters, this concession is required. I will point out to the hon. Member that rule 92 though not worded in exactly the same terms as those used by my hon. Friend, is in effect the same as what he has said. A perusal of the rule would show to my hon. Friend that the test to be applied to decide the question whether fee concession should be given or not, is whether it is necessary to enable the pupil to continue or to undertake studies in an educational institution. That, I may submit, is in effect the same as my hon. Friends have said must be the test that should be applicable in such cases.

"I may, for the information of the House, just mention a word or two as to what the present state of things is with regard to fee concession for girls. Up to the III Form not only girls of the Muslim community but girls of other communities also are exempted from payment of all fees if such exemption is necessary to enable them to continue their studies. For classes above III Form, half-fee concession is granted, subject of course to the same proviso as in the case of the lower classes. This rule was framed and brought into effect in the year 1929 in pursuance of a desire of this hon. House itself that exemptions from the payment of the fee in full should be granted up to III Form and not for classes beyond that. We have been working the new rule from the year 1929. If, as I can gather from several hon. Members who have taken part in this discussion the concessions granted have not resulted in any appreciable progress in female education, certainly it is time to consider what further concessions should be granted. I am in entire agreement with my hon. Friend, Mr. Muniswami Pillai and others who spoke in support of him, that it is not the Muslim community alone that stands in need of help but other communities also do equally deserve concessions for the education of their girls. I am glad to note that my Muslim friends who have spoken on this

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resolution have spoken in appreciative terms of what the Government have done with regard to the imparting of religious education to Muslim pupils in schools. When any special conditions prevail amongst them—conditions which do not obtain amongst other communities in the Presidency—which justify preferential treatment being granted to them, without fear of the opposition that it might rouse, the Government have been prepared to show them that preferential treatment. But I must say that in this case I do not think that there are any conditions specially applicable to the Muslim community which do not apply to other communities as well. Backwardness in female education is not confined to the Muslims alone. It is perhaps found in even a greater degree as my hon. Friend, Mr. Muniswami Pillai pointed out, amongst the depressed classes, and there are several other communities also which are not very advanced in the matter of education amongst their girls.

“The Government themselves have realized, when passing that order which has been embodied in rule 92 of the Educational Rules, that in the case of girls under instruction, greater concessions are required than in the case of boys. In the case of the boys, my hon. Friends would realize that the highest concession that is granted is only a half-fee concession. It is only in the case of girls that full-fee concession is granted up to the III Form. (Mr. Basheer Ahmed Sayeed: ‘Then recast the rules.’) My hon. Friends, Mr. Mahboob Ali Baig, and Mr. Patnaik have brought to the notice of this hon. House that rule 92 has not been worked in conformity with the intention of the framers of that rule.”

MR. SAMI VENKATACHALAM CHETTI:—“On a point of order, Sir. It is already past 5 p.m.; may I know if the Council is going to sit longer to-day?”

* The hon. the PRESIDENT:—“If the hon. Minister has no objection to continue his speech on the next non-official day, i.e., in August next, the Council may rise now.”

The hon. Diwan Bahadur S. KUMARASWAMI REDDIYAR:—“I shall finish my speech in just a minute or two, Sir. (An hon. Member: ‘Mr. Hameed Khan himself has no objection to the postponement.’) In that case, I have no objection to continue my speech on the next non-official day, Sir.”

The House then adjourned to meet again at 11 a.m. on the next day.

R. V. KRISHNA AYYAR,
Secretary to the Legislative Council.

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APPENDIX I.

[Vide answer to question No. 592 asked by Mr. K. A. Nachiappa Gounder at the meeting of the Legislative Council held on the 1st February 1934, page 312 supra.]

Statement showing the number of persons convicted of offences connected with the civil disobedience movement in each month since June 1933.

	June.	July.	August.	September.	October.	November.	December.	Total.
Madras ..	1	1	1	..	..	..	..	3
Anantapur ..	..	..	..	..	..	..	..	..
Arcot, North ..	..	..	..	..	..	..	..	..
Arcot, South ..	..	..	9	..	..	..	..	9
Bellary ..	..	..	..	..	..	..	..	..
Chingleput ..	..	..	1	..	..	..	..	1
Chittoor ..	..	..	..	..	..	..	..	..
Coimbatore ..	..	..	4	1	..	..	..	5
Cuddapah ..	..	..	..	..	..	..	..	..
Ganjam ..	..	..	..	..	..	..	..	..
East Godavari ..	..	..	..	3	..	..	1	1
West Godavari ..	..	..	..	4	1	2	..	7
Guntur ..	..	..	..	..	..	..	..	..
South Kanara ..	..	..	..	..	1	1	3	6
Kistna ..	..	1	..	1	..	..	..	1
Kurnool ..	..	..	..	..	..	..	..	..
Madura ..	..	..	9	..	14	..	3	26
Malabar ..	1	..	..	5	5	2	..	13
Nellore ..	..	..	..	..	..	..	..	..
Nilgiris, The ..	..	..	..	..	..	..	..	..
Ramnad ..	..	..	..	..	..	..	..	..
Salem ..	..	..	21	..	..	..	..	21
Tanjore ..	..	..	..	..	..	..	..	..
Tinnevely ..	..	..	..	1	..	1	..	2
Trichinopoly ..	..	..	3	..	..	..	..	3
Vizagapatam ..	..	..	..	..	..	1	..	1
Total ..	1	2	48	16	21	7	7	102

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APPENDIX II.

[Vide answer to question No. 593 asked by Mr. M. D. T. Ranganatha Mudaliyar at the meeting of the Legislative Council held on the 1st February 1934, page 313 supra.]

445 Q.—Will the hon. the Member for Revenue be pleased to state—

(a) whether it is a fact that the right bank of the Korayar river higher up Maruthuvaneri anicut in Srivilliputtur taluk, Ramnad district, breached a number of times between 1914 and 1925;

(b) whether the breach was finally closed in 1925;

(c) whether the river breached again after 1925;

(d) whether the Executive Engineer, Tinnevely division, inspected the river and proposed the formation of a flood bank to prevent further breaches in the Korayar and in order to allow the legitimate supply to Maruthuvaneri and Elundrakondan tanks;

(e) if so, what orders have been passed by the Collector of Ramnad, on this proposal, and when;

(f) whether the estimates have been prepared for this work and what the approximate cost of this work is; and

(g) whether this work entails acquisition of lands and if so, what the extent is that has to be acquired and what will be the approximate cost of the land to be acquired.

A.—(a) to (c) There are no records to show that breaches occurred between 1914 and 1925; but breaches were closed in 1928 at an approximate cost of Rs. 8,400.

(d) The Executive Engineer inspected the locality in November 1928. He proposed to form a flood bank to prevent the spill water from the Korayar taking a separate course, the spill being due to the fact that the bed of the river and the surrounding country are more or less on the same level.

(e) In January 1930 the Collector called for proposals for the acquisition of land required for the formation of the flood bank.

(f) No estimate has yet been prepared but approximate cost will be Rs. 10,000. The question whether the comparatively large expenditure of Rs. 10,000 on this work is justifiable is under consideration and, if it is found that it would be justifiable, surveys and levels will be taken and a detailed estimate prepared. It was reported in November last that the subject was to be discussed by the Executive Engineer with the Collector. The Government have not received any further report on the subject.

(g) Yes. The land is in an unsurveyed Zamindari (Sivagiri) and the approximate cost of acquisition will be about Rs. 1,500.